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Annual Business Meeting Convivial

by Donna C. Willard

Apart from some minor, albeit friendly controversy over two Fairbanks-originated resolutions reported elsewhere, the annual business meeting of the Alaska Bar, held June 6, 1981, in Juneau, proved the exception to the rule of recent years.

In an atmosphere of benign solitude, the assembly approved the minutes from the 1980 meeting, unanimously elected the Board's recommended slate of officers and listened attentively to President **Bart Rozell's** report on the status of sunset, the progress of the bar examination review committee, and the proposed workshops to train Alaska's law examiners.

F.T.C. Questionnaire

In addition, Bart revealed that Alaska had submitted a narrative, conclusory response, similar to several other states, to the F.T.C. questionnaire. He indicated that a large number of states did nothing while a very few in fact complied. Alaska, apart from philosophical and policy objections to the questionnaire, does not have the economic resources with which to fully respond.

Discipline Public

President Rozell also reported that a rule amendment was pending which would, at an earlier time, make public the fact of disciplinary proceedings against an attorney. Under the current system, the process remains confidential unless and until the Board of Governors, acting as the Disciplinary Hearing Committee, recommends action be taken by the Supreme Court.

The proposal as currently structured, provides that the pending action become knowledge at the formal hearing stage. The rule as it may be amended will be published, and comment by the members of the Bar is encouraged.

Discipline Statistics

Karen Hunt, President-Elect, presented the discipline report. There is one remaining 1977 case and one from 1978 both pending before the Board. In addition, there are two cases from 1978 and 1979 being held in abeyance, pursuant to Board policy, awaiting resolution of pending litigation in the trial courts.

The remaining 1979 case will be heard in September by the Board thereby leaving no cases older than 1980, other than those alluded to above.

On the docket from 1980 are 17 cases, two of which are being held in abeyance. Four others are scheduled to be heard at the July Board meeting while three against one respondent attorney have been consolidated, and two against another attorney have received similar treatment.

Of the 25 pending 1981 cases, ten are catalogued as neglect, 5 as misrepresentation or fraud, 1 as a trust fund violation, 2 as interference with justice, 1 as and

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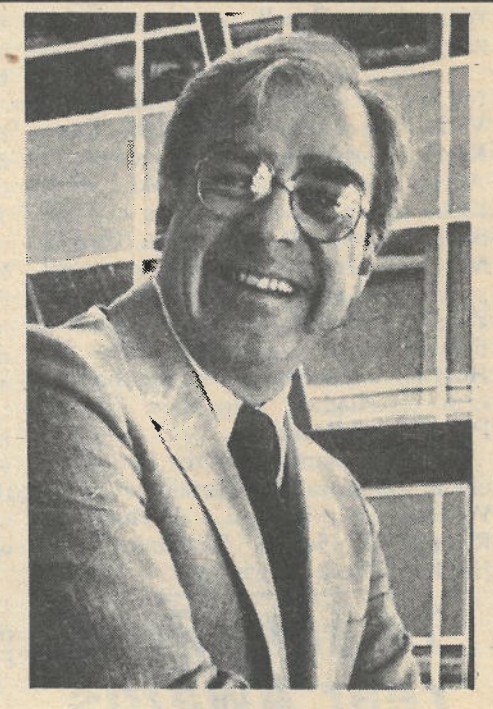

photo by Monte Paulsen

photo by Ken Roberts

Pegues, Andrews Appointed

by Kathy Kolkhorst & William T. Ford

Elaine Andrews has a lot of things going for her. Bright, well-educated, happy in her new marriage, Elaine is, at age 30, a recently appointed District Judge.

Elaine was born in San Francisco, the daughter of a sheet metal worker and the second of five sisters. Her father was an avid fisherman and, as a child, Elaine remembers viewing her father's home movies of his fishing trips to Alaska.

Law School

Elaine entered Golden Gate, a school which actively recruited women. Associate Editor of the Law Review, teaching assistant for Appellate Adovocacy, and research and writing instructor, Elaine still found the time to take a special course on immigration law which she attended in Mexico and, also, courses at Hastings.

After a visit to Alaska in the summer of 1976, Elaine returned to California, graduated, and took her California bar exam. During this period she applied for some other jobs in Alaska and chanced to mention to Bernie Siegal that she was planning to move to Alaska. His response was "Why didn't you tell me this before?" In short order he had referred her to the Judicial Council in Anchorage where she was hired.

Tripping

Elaine took the Alaska bar in February of 1977, and, deciding it was time "to get her feet wet," made plans to leave the council in order to practice her profession. After a trip around the world, it was back to Alaska and back to work at her new position as a Public Defender.

Armed with two years' heavy public defender experience, Elaine decided it was time to enter private practice. She teamed up with Ruskin, Barker & Hicks in a major career switch that brought her experience in general commercial litigation.

Which brings us to the present with Elaine emerging into her new role as a District Court Judge.

Assistant Attorney General **Rodger Warren Pegues** was recently named by Governor Hammond to fill the First District Superior Court seat vacated by **Allen Compton's** elevation to the Supreme Court in December. Known as a constitutional scholar with a ready wit, Pegues, 48, is expected to be sworn in at the end of July.

Government Service

A graduate of both University of Washington, where he was Phi Beta Kappa, and University of Washington Law School (J.D. 1965), Pegues has practiced law for a total of 16 years. He began his work with state government as a research assistant to the Legislative Council in 1959, then served as director of Local Affairs in the Governor's Office. After receiving his law degree, he worked as a lobbyist for a coalition of environmental organizations and formed a law firm near Seattle, where he practiced for a year. In 1967 he began to work as house counsel for the National Park Service in Seattle and Washington, D.C. Six years later he returned to Alaska as an Assistant Attorney General, beginning in the Natural Resources section, where he helped negotiate the contract with the Department of the Interior for joint federal-state supervision of the construction of the trans-Alaska Pipeline and worked with Prudhoe Bay discovery royalties. He was appointed director of the Government Affairs section of the Attorney General's office in 1975, where he

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INSIDE

The Sun Also Rises

by William B. Rozell

The Alaska legislature has passed SB 392 extending the existence of the Board of Governors of the Alaska Bar Association until June 30, 1985. Governor Hammond signed the bill on June 25, 1981. After two years focusing on the setting sun, it is a pleasant change to look forward to four years more of daylight (five if you count the twilight windup year between 1985 and 1986). In the years ahead we can focus our energy on substance instead of survival.

Audit Not Accomplished

As the legislative session wound up, the constitution of the Bar Association was never really in issue. Settlement of the litigation with Legislative Audit was probably the critical step in overcoming the atmosphere of acrimony that existed during the 1980 legislative session. As previously reported, a court order was entered, with the consent of the Board of Governors, permitting a CPA employed by Legislative Audit to review confidential Bar records. Strict limitations were imposed on the CPA and Legislative Audit to ensure continued confidentiality of records and information about individual attorneys and witnesses. In the end, the legislature never got around to conducting its audit. But elimination of that point of contention took away any serious support for efforts to sunset the Bar.

Rodey Leads

Charlie Parr, this year a member of the Senate Judiciary Committee, continued the effort he began last year as chairman of the House Judiciary Committee to disintegrate the Bar and place control of the legal profession under the Division of Occupational Licensing, with legislative oversight. **Pat Rodey,** chairman of the Senate Judiciary Committee, led the effort to pass a bill continuing the existence of the Bar Association. After initial hearings before the Judiciary Committees of both houses, the Senate Judiciary Committee passed out Senate Bill 392.

Lay Members Added

The primary changes included in the Senate bill were the addition of three lay members to the Board of Governors and application of the public meetings law to Board meetings. The bill also provided that Board meetings must take place in Alaska, a policy adopted by the Bar Association at its 1980 convention. Although the Board of Governors has acted consistently with the intent of the public meetings law in the past, and intends to continue that compliance, it is interesting to note that by its own terms the statute is applicable only if the Board receives state funds. The Bar did not ask for state funds this year and none were appropriated.

Senator Parr made his effort to disintegrate the Bar on the floor of the Senate. He offered two amendments, one calling for voluntary membership and one to make the Administrative

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Bar Exam Results Announced

Ninety-four (94) applicants sat for the February, 1981 Alaska Bar Examination. Ten (10) of those applicants qualified as attorney applicants and were required to take only the Alaska law essay portion of the exam. Of the 10 attorney applicants who sat for the attorney exam, five (5), or 50%, passed.

Eighty-four (84) general applicants sat for the entire two and one-half day exam. Of those 84, 57 passed (68%) and 27 (32%) failed. Combining both attorney and general applicants, of the 94, 62 passed and 32 failed, for an overall pass/fail ratio of 66%/34%. The July 1980 pass rate was 62%, the lowest success rate since 1975. The highest recent pass rate was achieved on the February 1975 bar exam, when 79.7% passed.

★★★

Of the 94 applicants in February of this year, 31 or 32% of the applicants taking the exam were repeaters. Twenty-four (24) were taking the exam for a second time, four for a third time, one (1) for a fourth time, and two (2) for a sixth time.

Seventy (or 74% of the applicants were men, but the 24 women were more successful, 75% of the women passing while only 63% of the men passed.

While graduates from the big name law schools consistently did well (e.g., Harvard, Stanford, and U.C. at Berkeley and Davis applicants had a 100% pass rate), graduates from Gonzaga and Antioch continued to do poorly, the pass rate of Gonzaga graduates at 43% and Antioch graduates finding no success. The Board has noticed a consistent problem with the success rates of graduates from both of these schools and has communicated this information to the American Bar Association's accreditation division.

★★★

Of interest is the effect on the pass/fail rate of the Bar Rule which makes an MBE scale score of 135 equal to a passing (70%) score, instead of the actual scale of 140 equal to 70%. Fifty-seven or 68% of the 84 applicants taking the MBE with the scale score at 135 were admitted. If the scale score was raised to 140 equals 70%, only 45 or 54% of those taking the bar would have passed and been certified to the Court for admission. It is a difference of 14%, or 12 individuals.

★★★

The Board has recently employed consultants who are experts in the field of analyzing bar exam results and in the writing and grading of bar exam questions. Dr. **Steven Klein** of the Rand Corporation in California, and **Ken McCloskey,** former executive director of the California Law Examiners Committee, have been retained to assist the Board in reviewing the bar exam procedures. These gentlemen both met with members of the Law Examiners Committee in June of this year.

Recent amendments to the Bar Act passed by the Legislature require the Board to employ consultants to assist in the writing and grading of exam questions, as well as in the training of examiners, so that the Board assumed responsibilities even before formally given them. Another workshop will be held later this summer for the Law Examiners Committee.

Those passing the February examination were:

ABRAHAM, Alexander
BARRY, Elizabeth J.
BEERS, Everitt G.
BERGER, Steven J.
BIRMINGHAM, John
BRELSFORD, James F.
BULLEY, Elaine M.
CHISOLM, JR., Barney J.
CLOUGH, III, John F.
DAVIES, Bruce O.
DELAY, Lawrence C.
dePARRY, Astrid M. E.
DONAHUE, Robert M.
DUNDY, Michael W.
EHRHARDT, Peter R.
FARR, James A.

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Convention Elects Officers

Karen L. Hunt became president of the Board of Governors of the Alaska Bar Association, at the Bar's 1981 Annual Convention, held in Juneau last week. Hunt, 40, is in civil litigation practice, and a partner in the Anchorage firm of Delaney, Wiles, Hayes, Reitman, and Brubaker. Hunt was admitted to the Bar in 1973. She takes over the helm of the 1,600-member Alaska Bar from **William B. Rozell** of Juneau who served as president from 1980-81.

The other newly elected officers of the board of governors of the Bar are Vice-President, **Elizabeth Page Kennedy,** assistant attorney general in Anchorage; President-Elect, **Andrew J. Kleinfeld,** in private practice in Fairbanks since 1971; Secretary, **Harold M. Brown** from Ketchikan, a general practitioner and partner in the firm of Ziegler, Cloudy, Smith, King, and Brown; and Treasurer, **Mary K. Hughes,** a partner in the Anchorage firm of Hughes, Thorsness, Gantz, Powell, and Brundin.

Other members of the board include: **William B. Rozell,** Juneau; **William P. Bryson,** Anchorage; **Richard D. Savell,** Fairbanks; and **Hugh G. Wade,** Anchorage.

Twenty-Five Year Awards

At the Annual Meeting banquet on June 6, 1981, the following attorneys were honored with plaques commemorating 25 years' membership in the Alaska Bar:

Warren C. Colver
James J. Delaney, Jr.
Peter LaBate
Mary Alice Miller
A. J. Schweppe
Charles E. Tulin
L. Eugene Williams

In addition, **Frederick Paul** was presented with an award recognizing 40 years of membership because he had been inadvertently omitted from the roster when the 25-year award program was inaugurated in 1974.

Bar Awards Scholarships

Ten Alaskan residents were awarded $1,000 scholarships for the study of law by the Alaska Bar Association. The awards were announced by **Carolyn E. Jones** during the 1981 annual convention, held in Juneau last week. Jones is chairperson of the Legal Educational Opportunities Committee which manages the scholarship program. The awards, based on need, were awarded to Alaskan residents studying law or entering law school, and who intend to practice law in Alaska upon graduation. This is the second year that these awards have been made.

The Alaska Bar's highest award, the Boney Memorial Scholarship, in honor of Alaska's first Chief Justice, **George Boney,** went this year to **Traeger Machetanz,** a lifetime resident of Palmer, and a 1981 graduate of Willamette University. **Gail Anagick-Oba,** a lifetime resident of Unalakleet, took the John Manders Scholarship, designated in honor of John Manders, a lifetime Alaskan lawyer. Anagick-Oba received a masters in business administration from Cornell in 1981, and will be entering Cornell Law School this fall.

The remaining eight scholarships were awarded to:

Paula Jean Anderson, Cordova, 1979 graduate of University of California, Berkeley; **Kathyrene Burchfield,** Fairbanks, 1981 graduate of University of San Francisco; **Michael Elliott,** Juneau, enrolled at the University of Puget Sound; **Darrell James Gardner,** Anchorage, enrolled at Hastings College of Law; **Suzy Mack,** Anchorage, 1977 graduate of the University of Alaska, Anchorage; **William Rudolph,** Anchorage and Homer, enrolled at the University of Wisconsin; and **Barbara Wertz,** Fairbanks, entering Lewis and Clark School of Law in the fall 1981.

Funds for the scholarship program come from the local bar associations across Alaska, individual lawyers and law firms, and a matching $6,000 grant from the John Manders Foundation, a private foundation in Washington.

Calendar!

Anchorage, despite some debate, will host the 1982 edition of the Alaska Bar's Annual Business Meeting. The dates are May 21 through May 23, 1982, so plan your calendar accordingly.

Fairbanks is rumored to be the site for 1983.

NITA of the North II scheduled for August

Responding to the huge success of the 1980 NITA of the North, the Alaska Bar Association and the National Institute for Trial Advocacy will be jointly sponsoring an intensive nine-day trial advocacy program for Alaska attorneys. It will be conducted at the Alyeska resort in Girdwood, Alaska from August 15 through August 23, 1981. Last year's Alaskan participants included members of the Bar from Anchorage, Fairbanks, Juneau, Bethel and Nome. Both inexperienced and experienced participants uniformly found it to be a worthwhile program.

The NITA Method

The NITA teaching method is primarily based on the concept of learning by doing. During class sessions student-lawyers will perform as trial counsel in all the various phases of trial, from *voir dire* to closing argument. Performances will be critiqued by faculty immediately after they are given and most performances are videotaped for further in-depth review and critique. While the NITA course is primarily focused on teaching advocacy skills and courtroom presence, it is also an excellent learning tool in legal problem-solving, developing and carrying out a theory of the case, and basic questioning techniques which are essential even if you don't try cases regularly.

The first seven days of classroom sessions cover jury selection, basic and advanced direct and cross-examination, exhibits and demonstrative evidence, opening statements and closing arguments. The faculty will also give several lectures and demonstrations throughout the week. During the final two days, each participant will team up with one other to conduct a full civil or criminal jury trial. NITA juries are generally six in number and are composed of people drawn from the local community.

Faculty

The enrollment for NITA of the North II will be limited to two sections of 26 student-lawyers. Faculty for each section consists of a team leader, trial judge and three experienced trial attorneys. the faculty for this session will be one of the most outstanding ever assembled for a NITA program. In addition to familiar faces from last year's faculty, there will be some new faces including a local Alaska attorney and an Alaska justice.

Heading one team will be Professor **James McElhaney,** Case Western Law School, Cleveland, Ohio. Many of you may know Professor McElhaney through his "Trial Notebook" series found in the ABA publication, *Litigation.* His faculty team will include Judge **Carol Brosnahan** of Berkeley, California; **James J. Brosnahan** of Morrison & Forester, San Francisco, California, author of *Trial Handbook for California Lawyers,* a Bancroft-Whitney publication, as well as past president of the San Francisco Bar Association; **William R.** ("Billy Roy") **Wilson** of Little Rock, Arkansas; **Irwin Schwartz,** federal public defender in Seattle, Washington; and **Wendell Kay,** a locally reknowned Alaska defense attorney who needs no further introduction.

Heading the other team will be **Barbara Caufield,** former Director of Hastings Center for Trial and Appellate Advocacy who was recently appointed academic dean at Hastings College of the Law in San Francisco. Joining her will be **e. robert** "bob" **wallach,** co-founder of the Hastings College of Advocacy and former president of the San Francisco Bar Association; Professor **John Strait,** University of Puget Sound Law School; **Howard Janssen,** assistant district attorney in charge of Hayward Branch, Alameda County, California office; and **Weyman I. Lundquist** of Heller, Ehrman, White & McAuliffe, San Francisco, California, immediate past chairman of the ABA litigation section and senior trial attorney for Heller, Ehrman, et al.; and **Allen T. Compton** who was recently appointed as justice to the Alaska Supreme Court after having served as a superior court judge in Juneau, Alaska.

In addition to the above faculty, **Sonya Hamlin** of Boston, Massachusetts, a communication skills expert, will work with the participants of both teams. Ms. Hamlin has been a director and a performer, and has been involved in NITA for several years. She will give lectures and demonstrations on communication through body language. Ms. Hamlin did not participate in last year's NITA program. She is a remarkable asset for NITA of the North II and she alone is well worth the price of admission.

The Cost

The NITA experience requires a major commitment from its participants in time, energy and money. The case materials must be read and thoroughly digested before the session begins, for once it does begin, the pace closely proximates that of an actual trial. Besides being a lovely location with fine accommodations, the primary reason Alyeska was selected as our program site was simply to isolate participants from the day-to-day distractions of their practices. We will require that all participants stay in Girdwood throughout the program. If you intend to bring family along, do not plan on having much free time to share with them.

Tuition for the program will be $1,000.00 with room and board (twin occupancy plus three meals per day) costing approximately an additional $400.00 per person. Roommate requests will be honored and single-room occupancy can be arranged for an additional price. A limited number of partial scholarships will be available for those applicants demonstrating special needs. Bus service to and from Anchorage will be provided for those who request it. If any of you or your friends own living accommodations in Girdwood and would like to contribute much needed space for our faculty, support staff and scholarship participants, please notify **Randall Burns** at the Alaska Bar Association as soon as possible.

Applications will be sent to each Bar member in the next statewide mailing. To ensure a place in the program, a $300 deposit made out to the Alaska Bar Association must be enclosed along with your application. It is anticipated that enrollment will close no later than July 1, 1981, although a wait list will be established. Because of the limited spaces available, many attorneys who wanted to participate last year had to be turned away. It is advised that you get your deposit in early to reserve a space in the program. Course materials and program scheduling will be mailed to all participants by the end of July at which time the balance for tuition and room and board will be due.

While the NITA Program cannot magically (instantly) convert a beginning advocate into a courtroom superstar, it does instill confidence in the attorney's own ability to act as trial counsel and substantially increases the attorney's competence to carry on a trial. Graduates uniformly consider NITA to be their most rewarding and meaningful professional experience. It is well worth the cost.

Persons seeking further information about the program should write or call **Jennifer Ortiz,** CLE Coordinator for the Alaska Bar Association, 360 "K" Street, Suite 105, Anchorage, AK 99501, tel. no. 272-7469.

Coming Events

Board of Governors' Meetings

August 27, 28, 29, 1981 — Anchorage
October 1, 2 & 3, 1981 — Anchorage
December 10, 11 & 12, 1981 — Anchorage
February 11, 12 & 13, 1982 — Anchorage
April 1, 2 & 3, 1982 — Fairbanks
May 17, 18 & 19, 1982 — Anchorage
May 20, 21 & 22, 1982 — Anchorage — Annual Convention

Memorandum

In response to the judicial needs of communities within the Third Judicial District and in an effort to better serve those needs and expedite the process, superior court civil actions may be filed at the following locations:

1. Anchorage
2. Kenai
3. Kodiak
4. Palmer
5. Homer
6. Valdez
7. Cordova
8. Dillingham (limited to family matters)
9. Glennallen (limited to family court matters)
10. Seward (limited to family court matters)
11. Unalaska (limited to family court matters)

The effective date of this amended designation of locations where superior court civil actions may be filed is July 1, 1981.

You will note that Cold Bay has been removed from the designations. In the future, all family court matters from the Cold Bay area may be filed with the Unalaska court.

President's Column

by Karen L. Hunt

And, What Did You Do In the War?

Repeatedly studies are revealing that in professional organizations, ten percent (10%) of the membership are working in the organization carrying out the functions for the whole group. The next twenty percent (20%) attend most of the activities and occasionally work. The next forty percent (40%) merely send money. The next twenty percent (20%) never work; never attend; and (if payment is voluntary) occasionally send money. The last ten percent (10%) never pay, never work, never attend, but frequently complain about what everyone else is doing (or not doing). Ever think about which group you belong to?

The first time I heard about these studies, the speaker also suggested that the controversy as to whether lawyering is a trade or a profession can be answered simply by every attorney. If one is in the first thirty percent (30%) of the membership, one is thinking and acting as a professional—everyone else is thinking and acting as a tradesperson. Which are you? If you're not comfortable with the answer, only you can change it.

Mandatory CLE #!0#!

Elsewhere in this issue is publication of a proposed rule which would give one hour's credit for each fifty (50) minutes of attendance and would require fifteen (15) CLE credits per year by each member. A hardship waiver provision is included. According to ABA data, ten (10) states now require CLE in order to maintain an active license to practice law. Seven (7) of these are integrated in the West and Mid-West. Several local bars require CLE of Lawyer Referral participants.

Please let the Bar Office know your evaluation of the proposed rule. We know we will hear from those who don't want any such requirement, but if you support the concept, please let us hear from you as well. The BOG is not unanimous in support of the idea so both sides need input from the membership. Interestingly past polls on this issue indicate a majority of respondents favor reasonable mandatory CLE, but it has been defeated at annual meetings when raised.

Although I have opposed mandatory CLE in the past, I have come reluctantly to support it. I have no difficulty with self-imposition of such a criteria for continuing to practice, but I do not favor the legislature or the feds or the court imposing the requirement on me. I recognize the argument that merely hearing or seeing pertinent information won't guarantee I will be more competent, but I also recognize that taking an exam after a seminar is unacceptable to me as I think it is unnecessary. The exposure to current knowledge or skills as the more important ingredient isn't justified to me.

I reject now and always have rejected the argument that merely listening to a presentation or reading current materials is unrelated to maintaining or increasing my competency. Also unpersuasive to me is the argument that neither my clients nor my colleagues have a right to require that I be current on the law.

My past opposition to mandatory CLE is that I don't believe the Bar can require me to attend CLE if it could not accept the responsibility for providing numerous quality, pertinent CLE programs.

Thus, the primary reason I am now willing to support mandatory CLE is that I am much more confident that the Alaska Bar Association can and is planning to offer quality programs in a wide variety of subject matter. Therefore, I am not faced with having to

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Midsummer's Eve

The Price of Peace

For the last two years, the Alaska Bar Association has been put into a holding pattern while the Legislature decided whether this entity should continue to exist. During those years, the Board of Governors and three of its Presidents have spent much, if not most, of their time dealing with the question of survival. At first, it seemed to us that if the legislators on the Judicial Committees and the Legislative Audit and Budget Committee understood what and how the Association worked, they would give us their blessing and let us continue unmolested. No one counted on the fact that certain legislators on these committees felt that they had a personal score to settle with the profession of law and seized this opportunity to get even.

The early proposals included a number of inconsistent, unworkable, and on the whole, punitive proposals which effectively would have taken away the Association's self-governing powers. At the beginning of the sunset review, one legislator announced through the newspapers that he thought the Association was evil and ought to be destroyed. When the Board and interested bar members tried to reason with some of the legislators on these committees, they soon found out that no one was listening. At the end of last year's session, no action having been taken by the Legislature, the Board and staff had one year to close up shop.

The membership voted a raise in dues to cover the loss of state moneys for discipline at the convention in Anchorage. The Board of Governors continued to try to work with the Legislature. During the last year, the Board has given in on some of the less onerous demands of the legislature in order to continue to exist officially. Finally, over the vociferous protests of one legislator who still felt the Bar ought to be punished and humiliated, wiser heads prevailed and we were permitted to continue to exist as a self-regulating body with mandatory membership.

What did it cost us? We pay more dues. We can't and probably shouldn't expect the State to fund our admission or discipline processes. Our discipline files are open to legislative audit. We have three civilians on the Board of Governors; they are political appointees, and the Bar will have no input in their choice. No money has been allocated to pay for their per diems and expenses (presumably we will be expected to assume this cost). We hope the new appointees will be intelligent, open-minded human beings who will work with their fellow board members to serve the public and this profession. If not, the price of peace may have been too high.

Women's Day

The nomination and confirmation of a woman to the Supreme Court of the United States can be taken as a long overdue recognition of injustice to at least half of our citizens. Sandra O'Connor is clearly as qualified for this position as most if not all, of the 101 men who have preceded her.

Like Thurgood Marshall, she comes to the court with a burden of demonstrating not just proficiency, but excellence. Her decisions will be in the spotlight, particularly in the area of women's and minority rights. Her presence on the high court should open the way for the appointment of more women to the federal bench, where they are woefully scarce, and encourage more women to aspire to the judiciary.

We would like to believe that even Alaska may profit from this appointment. There are many highly qualified women lawyers in this state whose presence on the Superior and Appellate court bench would bring credit to the judiciary. Not enough of them have sought these positions, none have been appointed. We hope some of our best women attorneys will put their names in for the Juneau Superior Court opening and every similar opening to follow until the Governor gets the message and does something to right this wrong.

Harry Branson

Inside/Outside

Observations/Comments

by Karen L. Hunt

Bar Association Non-Lawyer Council

In addition to non-lawyers serving on Discipline and Fee Arbitration Committees, two Bar Associations have set up advisory councils made up entirely of non-lawyers. The purpose of these councils is to take the public pulse for the Bar Association. The Chicago Bar Association has established one. In addition, the District of Columbia Bar Association formed its citizen advisory group in 1973, a year after the DC Unified Bar was created.

Bar Hears Gripes Against Judges

The Bar Association of San Francisco has set up a Judicial Review Committee to hear complaints and suggestions about the area's sixty (60) to seventy (70) judges. The Committee first screens the complaint and when appropriate turns it over to the committee of the court in which the respondent judge sits. The court committee then deals with the complaint or advises the bar group to take it up with the judge directly. The entire procedure is confidential.

Attorney Malpractice

In December, 1980, the Supreme Court of New York granted summary judgment in favor of a malpractice insurance company and against two lawyers who were being sued for $100,000 in damages. The court held that lawyers cannot rely on coverage from the insurance company when they fail to give the company timely notice of the action against them. The court went on to say that a number of signals shold have alerted the lawyers to the possibility of a malpractice action, including substitution of counsel and a complaint to the Bar Association.

Mandatory CLE For Judges

In early 1981, the Ohio Supreme Court approved a proposal from the Columbus Bar Association that full-time judges be required to take a minimum number of CLE hours each year.

Fair Hearing!

The Supreme Court of California has ruled that a fair hearing is not afforded in disciplinary matters without giving the lawyer an opportunity to cross-examine witnesses; obtain and proffer evidence in his defense; subpoena witnesses; or offer any evidence in mitigation of the charges. This is true, according to the court, even for the lawyer who at the time of the hearing is in prison and does not have counsel present at a properly noticed hearing. This ruling gives new meaning to the term "jailhouse lawyer."

Unauthorized Practice Of Law

After a one year hiatus, the New

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All My Trials

by Gail Roy Fraties

"I know how to win the war in Vietnam."

The speaker was **Joe Perry**, Judge **William Stewart**'s bailiff, and we were standing in the Municipal Court in Salinas, California, watching the drunks file into the room for Monday morning arraignments. As usual, after a restless weekend, there were about a hundred of them.

"How would you do it, Joe?"

"I'd tell all these guys that there is a million gallons of free wine in Hanoi, and set them loose at the border. It would all be over in two days."

"How are you going to get them to sober up enough to shoot straight?" I wondered.

"Hell, Gail, they'd fight their way up there with their bare hands."

The 347-F's (drunk in public) were perennial customers of ours in the Municipal Court. Probably that statute has been outlawed as unconstitutional, or something, by this time — and if it has, I don't know who's going to take care of these people. We were the only ones who ever paid any attention to them.

Winterizing Fijakowski

My cousin, Judge **Elmer Machado**, also of the Municipal Court (he went up to the Superior Court a few years later), once had his bailiff, **Karl Prell**, calling the jails and the hospitals for two days when **Frank Fijakowski** failed to show up for a whole week. He was good for about every other day if he happened to be out of jail, and the judge was justifiably worried about him. He knew whether or not Frank was at liberty, too, because he used to tailor the sentences to meet Mr. Fijakowski's needs, more than anything else. If the old gentleman looked peaked, as well as drunk, he'd usually get about 10 days on the farm (a minimum security prison where the men could work outdoors in prison gardens and get plenty of fresh air — or, like Mr. Fijakowski, just wander around following the little animals). I happened to be present, however, one day in the fall when a nip was just coming into the air. On this occasion, Frank Fijakowski was sentenced to 120 days. "It's time to put him away for the winter," Judge Machado remarked quietly to his in-court deputy.

A Tale of Two Judges

Watching the arraignments of the two judges was really a study in their contrasting personalities. Both were exceptionally kind and decent men, and cared deeply about the needs and problems of everyone who appeared before them, as well as the protection of the public. However, Judge Stewart — to put it mildly — was a touch more patient than Judge Machado, who had inherited in full strength the restless nature of our mutual great-grandfather, **Chris Machado** — finally at peace in the graveyard of the old mission at Carmel.

The difference can best be exemplified by the fact that Judge Machado managed to arraign between 50 and 75 drunks in approximately an hour and a half, whereas Judge Stewart took the whole morning and into the noon hour. Both of them accomplished exactly the same objectives, and handed out the same sentences. These usually took the form of three days suspended for the first offense, the three days imposed on the second offense, 10 days imposed on the third offense, and start all over again with three days suspended on the fourth offense. This cycle was repeated endlessly unless somebody needed attention to their health, as explained above.

Judge Stewart was a gentle, friendly man with silver hair and a bemused expression. He peered at the courtroom through his brightly polished rimless glasses rather like someone who has walked into a strange place and is letting his eyes become accustomed to the light before asking for directions. With Judge Stewart, each individual prisoner — no matter how intoxicated — was the subject of individual attention. They all pled guilty, of course, since it was commonly known that any 347-F who did otherwise was set for jury trial in 30 days, and remanded to custody. This tradition had been started by my pragmatic relative, and Judge Stewart followed it as well. Of course, anyone who changed his mind was brought back immediately for sentencing — so everything worked out as soon as the recalcitrant individual sobered up enough to figure things out.

After the plea, Judge Stewart invariably asked each prisoner, "What are your plans?" and then listened, apparently with intense interest, to all sorts of wild schemes — which had as a common denominator the fact that they could only take place on condition of immediate release. Then he sentenced them just the way Judge Machado did, but he always listened to them first.

Dog at Large

He didn't seem to differentiate the 347-F's from the more normal offenders we dealt with in the misdemeanor court, either — and on one occasion I remember him putting on a charge of "dog at large" (leash law) before the drunks, in order that a nice lady would not have to sit through three or four hours of sentences. She was elegantly groomed and coifed, a dignified club woman in her middle years, obviously very much at ease with the Judge — whom she knew socially. After assessing a small, suspended fine, he politely inquired about the health of the offending animal, a miniature French poodle. She stated that it was well, in spite of the fact that it suffered from some exotic malady (the nature of which I have forgotten) peculiar to the breed.

Judge Stewart, as ever, was fascinated by this detail, and impulsively turned to a row of drunks who had spilled over from the courtroom into the jury box saying, "Why, that's very interesting. Did any of you ever---?" Something about their expressions deterred him, however, probably the fact that they obviously didn't know what the hell planet they were on, much less what anybody was talking about.

Judge Machado, on the other hand, was a model of efficiency, and judicial activism. He usually tried to read the 347-F statute — but invariably stopped about half-way through with the comment, "You're all charged with being drunk. You all know what your sentences are going to be, depending on how many times you've been in here, so don't tell me that you have a ticket to Castroville for a job that starts this morning. Anybody that says he's innocent gets a jury trial in 30 days."

Geelty

As each man stepped forward, he got the prescribed jolt — and it was all over in a mercifully short time. Salinas being an agricultural center, we had a large transient population of Mexican stoop labor — some of whom occasionally got swept up with the rest of the drunks. Most of them didn't speak English, and on these occasions one of our perennials, **Don Rojas** — could be heard quietly explaining to them in rapid Spanish, "When the patron speaks to you, wait until he is finished and then say 'geelty.' Since you haven't been here before, he'll let you go."

For many of them, I am sure, this is the only word in the English language that they ever learned — with the sole exception of "welfare," or "el welfare" as it was commonly called. Don Rojas, incidentally, had been with us so many times — for so long — that Chief Clerk **Lydia Kerns** once had the girls in the Clerk's Office add up all the three- and 10-day sentences he had served, which turned out to total 17-1/2 years.

Rojas 1 Breathalyzer 0

When Mr. Rojas was not in jail, he generally had a B.A. in excess of 0.20 per cent (milligrams of alcohol per 100 cubic centimeters of blood) — and functioned perfectly at that level. Anchorage investigator **Bob Bacolas**, then a detective sergeant with the Salinas Police Department, once won a bet from the Chief of Detectives, **Captain Duncan**, based on this bit of inside information. He made the idle comment that "balancing tests don't prove anything," and Capt. Duncan fell neatly into his trap. As a result, Mr. Rojas was brought from the drunk tank and performed a whole series of tests perfectly (it's still on videotape in the Department). Thereafter, he took his breathalyzer test and — being fresh off the street — scored a credible 0.27% (under California — as Alaska — statute, intoxication is presumed at 0.10%. At 0.30% the ordinary person is close to coma). I saw Don Rojas the following morning at arraignments, and — having sobered up — he could barely stand.

The Police Department regarded the drunks more as a disposal problem than as individual human beings — and did not share the judiciary's concern with their welfare. On the two-block walk from the drunk tanks to the courthouse, they were usually required to whistle "Colonel Bogey's March," and I was present on many occasions when the night detectives amused themselves by waking up all the drunks in the tank and making them sing. "Bringing in the Sheaves" was a popular request, as I recall.

My old friend, **Dale W. Cheek**, presently Director of the Wages and Hours Division of the Department of Labor at Juneau, was — in his early years — a member of the Salinas Police Department, and later the D.A.'s office. This was long before he worked with Attorneys **Pioda, Leach, Stave, Bryan** and **Ames** (the latter two gentlemen already known to my readers) and later became the Chief Investigator for the Public Defender's Office in Solano County, California, subsequently serving Alaska in the same capacity for the Department of Law.

Exodus

Himself a bottomless well of war stories, Dale once told me that there was a period, one summer, when the drunk arraignments fell off sharply — and investigations revealed that the town patrol, having tired of hauling the same offenders in on a nightly basis, had taken several wagonloads to the railroad yards and locked them in a freight car headed for Shreveport, Louisiana. As reconstructed from the garbled stories of the survivors who straggled back to Salinas, people kept getting out of the boxcar as they sobered up, and the train stopped, all across the country.

I often wonder whether any of them missed Judges Machado and Stewart, and their other old friends, in all those foreign courtrooms.

Letter to the Editor

Dear Editor:

I regretted to read in your May issue that **Phillip Habermann,** in his operational survey report on the Alaska Bar Association, recommended a substantial reduction in the number of issues of *The Bar Rag*.

While I haven't communicated to the editorial staff of *The Bar Rag* in the past the considerable enjoyment I receive in reading *The Bar Rag*, I certainly must do so now.

I receive a couple of other periodic newspapers from other bar associations around the country, and while they contain interesting information, to a degree, none of them are written with the wit or rollicking sense of humor that appears in *The Bar Rag*. Each time I receive an issue, my day is lightened considerably by the good fun provided by various of the articles. This, of course, is in addition to gleaning important information about recent developments affecting the bar.

I for one vote to keep *The Bar Rag* as it is.

Regards,

Stephen S. DeLisio

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Ode To A Prospective Posslq[1]

The morning rose is wet with dew
Your hair is gold, your eyes are blue;
My heart is filled with love for you.

Please come and be my Posslq.

My solitary state I rue
My love for you is ever new,
All other girls I would eschew.

Oh, come and be my Posslq.

All pleasures lovers ever knew—
Indeed, we may invent a few—
Are ours; to you I will be true.

So, pray now be my Posslq.

In blissful sin we will renew
our love, and join our revenue
We'll live as well as any two.

If you will be my Posslq.

Come, kiss, my love-and bill, and coo,
You love me, and I'll love you.
To single life we'll bid adieu.

Now that you are my Posslq.

—Wendell Kay

[1]"Posslq" is bureaucratese for Person of Opposite Sex Sharing Living Quarters!

A Little News from Dillingham

by Fred Torrisi
Bristol Bay Bar

The Bristol Bay Bar Association usually keeps a low profile. The last public surfacing of the group was in 1977 when we unanimously rose in futile protest of the firing of an excellent magistrate who allegedly smoked reefers in the privacy of his own apartment and who lived with a woman to whom he was not then married. Judges **Moody** and **Buckalew** may recall our letters, and their admission that, yes, he was well liked and well respected in Dillingham and the surrounding villages, and, yes, he had performed well as the only judicial officer resident in this corner of Alaska, but the decision would not be reviewed no matter how many letters they received.

Ironies of Case

The case had its share of ironies, as Bay residents had been trying to get the man's predecessor terminated for a decade for reasons which, oddly enough, pertained to his performance in the courtroom, and the presiding judges of the various judicial districts filed an *amicus* brief in the Supreme Court urging that a point be considered on appeal which had been conceded below, see *Buckalew v. Holloway* 604 P. 2d 240 (Alaska 1979). The Supreme Court considered it (that magistrates weren't "judges"), rejected it and went on to rule that serving at the pleasure of the presiding judge was not inconsistent with the constitutional requirement that judges (and magistrates) be selected "for terms." I never did find out what happened to the due process argument.

Plea Heard

But it is not protest that has caused me to raise the tattered banner of our local bar outfit this time. It was the *Bar Rag*'s poignant plea in the last issue, seeking help from far and near. If some miscellaneous news from Dillingham can help keep the newspaper alive and independent, we'll try to contribute every year or so, even when the news has been slow.

The court system has been very good to us since 1977, although some of our clients haven't fared so well. After the big bond proposal went down in flames a few years ago, the court system went ahead and arranged for Choggiung, Ltd., the Dillingham village corporation under ANCSA, to build and lease a new, goodlooking courthouse, which looks like the one in Homer and has as pleasant a view as anywhere.

Bush Practice

The law library, while still limited, has expanded significantly from the days when one chose between a haphazardly updated set of the Alaska Statutes and Clark's one-volume work *Summary of American Law* (which is still here, should someone need it). The magistrates hired by **Judge Moody** since Holloway have both been excellent, and on that front bush justice is taking a tentative step forward.

Unfortunately, the jail is still in the old courthouse. It provides the only point of agreement I can think of between the local bar and the police out here: the jail is unconstitutional as hell. But that story will no doubt emerge in the new courthouse very soon, if money is not found for basic improvements.

Lost Rights

But it is Limited Entry (AS 16.43) that is serving as the main anchor slowing progress towards a public percep-

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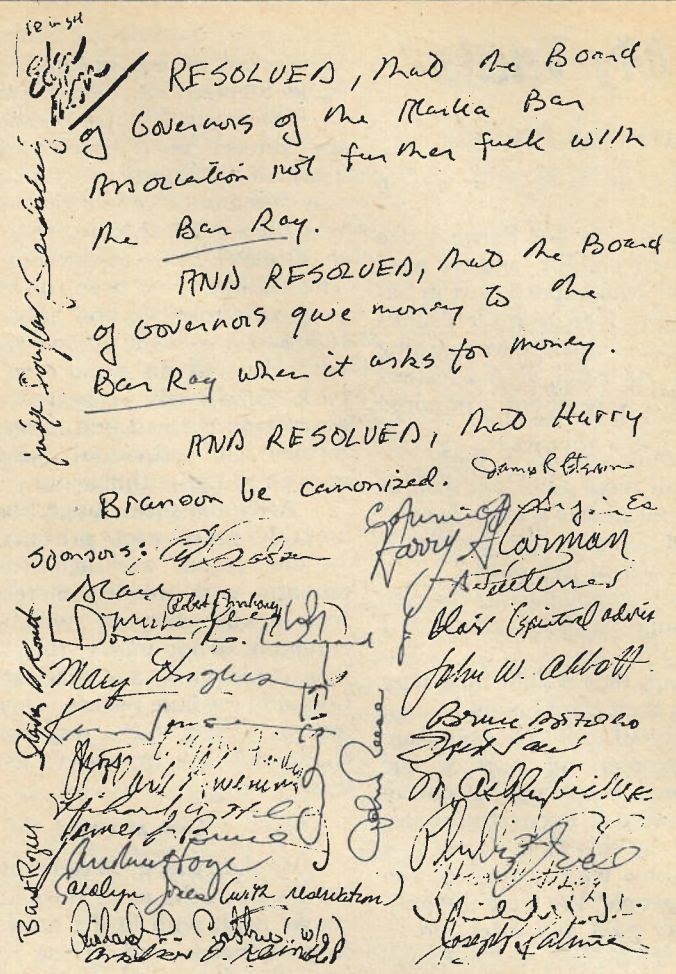

Resolutions Spark Debate

At one of the quietest business meetings in recent memory, the liveliest debate centered on the following resolution:

"Resolved, that the appellation 'Esquire' and its diminutive forms be and is hereby ABOLISHED.

"Further resolved, that all persons tacking 'Esq.' or 'Esquire' onto the names of lady lawyers be condemned to death."

Originated, orchestrated, written and moved by **Dave Call** of Fairbanks, and seconded by **Art Robson,** also of the interior city, the measure was quickly subjected to proposed amendments.

Michelle Minor moved and **Karen Hunt** seconded that the appellation "Esq." be dropped only as to male attorneys. That amendment failed.

Thereafter, **Bob Manley** moved and **Rod Pegues** seconded that the use of "Esq." as a member of a trade union of lawyers be approved and that "Dr." be placed in front of each attorney's name. Like its predecessor, the amendment failed.

Passed virtually unanimously was **Carolyn Jones'** motion to table the resolution to the 1982 annual meeting because of its weighty nature.

Also controversial was the **Call**-drafted "Bar Rag" resolution. Unfortunately, because it called for **Harry Branson's** canonization (offensive to some sects) it failed 13 to 21. No one sought higher authority as to the practicality, efficacy or legality entailed if the resolution had been adopted.

Finally, in spirits of goodwill, not to mention brotherhood, the convention assembled adopted a resolution allowing non-attorney District Court Judges to become members of the Alaska Bar as long as they paid dues. Presented by the Tanana Valley Bar with His Honor **Ed Crutchfield** as its impetus, the measure passed overwhelmingly. Welcome aboard, Ed!

Minutes of the February 20, 1981 Meeting of the Tanana Valley Bar Association

The meeting was called to order by President **Bob Groseclose.** There were no guests, though **Dick Madson** tried to introduce **Fleur Roberts** for the third time. The minutes were approved as read.

Ralph Beistline immediately moved, and **Charlie Silvey** seconded, that the president's acceptance speech be appended to the minutes and sent to the Bar Rag. The motion passed quickly on a voice vote, despite the president's assertions that **Barbara** wouldn't let him remove the speech (now framed) from his scrap book. Groseclose was ordered to produce (or reproduce) the speech at the next meeting.

The Bar Disciplinary Disclosure Committee played hot potato while others ate. Several suggestions were made: a) table for two weeks; b) apply for a 60-day extension; c) have the cover page file stamped February 20 and complete the response at the committee's leisure, and d) none of the above. The consensus of opinion was that we should depart from tradition and respond intelligently; however, **Dick Savell** frustrated this novel idea by proposing that, rather than doing nothing (and thereby playing into the Supreme Court's hands), we should write them a letter telling them we're doing nothing, thereby accomplishing the dual goals of doing something and doing nothing. Finally, Dick Madson moved, and **Barry Jackson** seconded, that we write a letter supporting the position of our elected leaders, the Board of Governors.

Someone made some noise about not all board members being our elected representatives, but nobody cared anymore and the motion passed. Barry

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THE SUN HAS ARISEN...

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Procedures Act applicable to some Bar Association procedures. Both amendments failed and the bill moved over to the House.

Brown Claims Conflict

House Judicary Chairman **Fred Brown** took the position from the beginning that as a member of the Alaska Bar he and his vice-chairman, **Don Clocksin,** had a conflict of interest and should not take a leadership role with regard to the Bar bill.

Representative Brown did introduce HB 371 which traced the House bill passed by the Judiciary Committee last year (before it was amended on the floor to do away with mandatory membership). The approach in the House was to wait for the Senate to act, then to use the Senate bill as the vehicle for discussion and the House bill as a check list for other items to be considered.

Rules Amended

As the session began to draw to a close without House action, Representative Brown appointed a subcommittee to come up with a House substitute. The subcommittee was chaired by Representative **Mike Miller** and included Representatives **Joe Chuckwuk** and **Randy Phillips.** The subcommittee conducted two hearings, including one teleconference session to take testimony from Anchorage and Fairbanks. It then drafted a bill which, in its essential components, was passed by the entire Judiciary Committee. That bill would have reduced the number of lay members from three to one, otherwise followed the Senate bill, and added some additional provisions. These included provisions concerning the administration of the Bar examination, making mandatory action already being taken by the Board to provide training for the Committee of Law Examiners in preparing and grading the Bar examination. The House substitute also included an amendment to Bar Rule 2 which would permit an applicant who has not graduated from an accredited law school to take the full Alaska Bar examination if he has practiced as a licensed attorney in another jurisdiction for five years. That amendment is consistent with an amendment already proposed by the Board of Governors.

Senate Unanimous

On the floor, the House rejected an amendment concerning the appeal procedure for failing Bar applicants but passed an amendment changing the number of lay members from one back to three. In its final form, SB 392 passed the House by a vote of 33-2. The two negative votes were Representative Brown who initially voted yes, then explained that he was changing his vote to no because he did not believe that the legislature had the constitutional authority to amend Bar Rules.

Representative **Metcalf** was the other no vote. He gave notice of reconsideration of his vote and reportedly was considering an amendment which would have addressed the question of copying charges imposed by the court system. However, he did not raise the matter on the next legislative day and the bill was transmitted to the Senate. The Senate accepted the House amendments the next day and passed the final bill 20-0.

Omissions Noteworthy

The Bar bill as passed is as notable for what it does not include as for what is included in it. The legislature did not make the Bar Association a state agency, nor did it pass provisions which would specifically have made applicable to the Bar Association the statutes on Legislative Audit, the Ombudsman's office or the Administrative Procedures Act. The legislature also declined to pass a proposed definition of the practice of law because it saw some problems with the definition as proposed in HB 371 and did not believe there was time to address that separate issue.

At the end of the session the tone of the hearings and communications between the legislature and the Bar Association were constructive and focused on addressing real issues. Where the legislature added substantive provisions, particularly those concerned with the admissions process, the provisions in the new statute are consistent with Board policy. In the final analysis, it appears that the legislature was convinced that the Bar Association was performing an important public function, could be expected to fulfill its responsibilities adequately, and should be continued.

Key Legislators

The process of developing that consensus in the legislature was a long one and was aided by the particular efforts of several legislators who deserve mention. On the Senate side, **Pat Rodey** assumed the major responsibility for the bill, saw its passage through the Senate and assisted with its passage in the House. **Senator Ziegler**, who provided the primary support last year, continued his efforts on behalf of the Bar Association. On the House side, Representative **Mike Miller** played a major role in drafting the House substitute and seeing it through to passage on the floor of the House. Representative **Randy Phillips** served on the House Judiciary Committee last year and on the Judiciary Subcommittee this year; he took a particular interest in the area of admissions and pushed through amendments on that subject, but on the whole was supportive of the Bar and assisted in the Sunset process with the Republican caucus. Representatives **Fred Brown** and **Don Clocksin**, although not members of the House Judiciary Subcommittee, were both active in their interest and support for the continuation of the Alaska Bar Association.

Finally, a statement of thanks is owed to the Bar's lobbyist **Norm Gorsuch.** Norm followed the Sunset bills through two years. He was always accurate in his assessments and on top of matters as they developed. His approach was low key and professional and in the end the legislature took a similar approach toward the Bar Association in passing the Sunset bill.

1981 INA Loss Prevention Seminar

The Alaska Bar's Ethics Committee and INA in Philadelphia will be combining their resources to present a more in-depth and comprehensive program on legal malpractice this year. **Eric Jones** of INA will be presenting the following topics: 1) An analysis of the country's claims and their relevance to Alaska, 2) Problems lawyers are being held liable for, 3) Types of claims filed against Alaskan attorneys and the factual basis for these, and 4) Pros and cons and other comments on the engagement letter.

The Ethics Committee's presentation, under the direction of Chairperson **Charles P. Flynn**, will cover: 1) Trust accounts, 2) The courts' use of the Code of Professional Responsibility for standards in cases of malpractice suits, 3) decisions related to these issues, and 4) other issues.

The program will be offered September 10, in the East Gold Room of the Travelers' Inn in Fairbanks, and on September 11, in the Ballroom of the Sheraton Anchorage Hotel.

Proposed Mandatory CLE Rules

Continuing Legal Education for Attorneys in Alaska

Purpose:

It is of primary importance to the members of the Bar and to the public that attorneys continue their legal education throughout the period of their active practice of law. These rules will establish the minimum requirements.

Educational Requirements:

(a) MINIMUM REQUIREMENT. Each active member of the Alaska Bar Association shall complete a minimum of fifteen (15) credit hours each calendar year.

(b) REPORTING. Each active member of the Alaska Bar Association shall certify compliance with this requirement on a report form provided by the Board to be submitted in conjunction with his or her annual dues payment, but not later than February 1 of each year.

(c) EXEMPTION. An attorney shall not be required to comply with the requirements of this rule during the calendar year in which he or she is admitted to the Bar.

Sanctions:

Any member who has not certified compliance with this rule by February 1 is subject to sanctions. Thirty (30) days after the filing deadline, any member who remains in non-compliance shall be notified in writing, by certified or registered mail, that the Executive Director shall, on April 1, petition the Supreme Court for an order suspending such member for non-compliance with this rule. Such notice shall be sufficient if mailed to the address last furnished the Association by the member.

Waivers:

The Board may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirement or extensions within which to fulfill the requirement or make the required report. No waiver or extension of time shall be granted unless, prior to April 1, the non-complying member shall complete and return to the Board of Governors a petition, which may be accompanied by an affidavit or affidavits in support thereof, requesting an extension of time or exemption from compliance. Waivers of the minimum educational requirement may be granted for any period of time not to exceed one (1) year. The Board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirement waived by such methods as may be prescribed by the Board.

Credit:

Continuing legal education credit shall be awarded on the basis of one hour of credit for each fifty (50) minutes actually spent in attendance at an approved activity.

Credit will be given only for continuing legal educational activities approved by the Board of Governors. Hours in excess of the minimum annual requirement may be carried forward for credit into the next succeeding year only. Hours to be carried forward must, however, be reported in the annual report for the year in which they were actually completed.

No credit will be given for hours accumulated prior to admission to the Bar or prior to the effective date of this Rule.

Credit may be earned through teaching in an approved continuing legal education activity. The Board shall award one (1) hour of credit for each fifty (50) minutes actually spent in preparation for teaching, up to a total of six credits per approved continuing legal education activity.

Standards for Approval of Continuing Legal Education Activities:

[continued on page 13]

MILD MEETING...

[continued from page 1]

one is being held in abeyance.

One attorney is being reinstated after a two-year suspension, while of two attorneys on disciplinary suspension, one has been returned to active status.

One discipline case is currently pending before the Supreme Court.

Substantive Law Committees

Also announced was the formal reorganization of the substantive law committee into sections. Controlled by a five member executive committee appointed for staggered terms, the sections are charged with presenting C.L.E. programs as well as participating in the annual update.

Membership in the sections is open to all members of the Bar. There is no charge for membership in one section but those desiring to participate in any more will be charged $5.00 for each additional section joined.

As of June 1982, there will be annual section meetings at which substantive programs will be presented and the members of the Executive Board will be elected.

Arbitration Project

Also reported was the fact that the Alternative Disputes Resolution Committee had established as its pilot project the Anchorage Community Arbitration project. The program has been incorporated as a non-profit corporation and is currently seeking $50,000 in start-up costs. While Bar funds will not be contributed, the Association will provide physical space and support services for the first year.

Fiscal Report

Treasurer **Pat Kennedy** reported that, in accordance with the promise of the Board at the 1980 convention, the three year budget was on schedule and no dues increase was being contemplated prior to 1984.

CLE Publications Available

The following publications are available at the Alaska Bar Association's office:

• *1981 Professional Update Conference Handbook.* A comprehensive and detailed publication of recent developments and changes in the following areas of law: Family, Torts, Criminal, Real Estate, Administrative, Business, Taxation, Natural Resources, Environmental, and Civil Rules. The handbook was prepared by the Bar's 10 Substantive Law Sections, and published by the Alaska Bar Association. The price is $50 per copy.

• *Alaska Workers' Compensation Law: Practice and Procedure.* The most complete handbook on the practice of workers' compensation law in Alaska. Written by Anchorage attorneys **William W. Erwin** and **Joseph A. Kalamarides,** and published by the Alaska Bar Association. The price is $25 per copy..

• *How to Start and Build a Law Practice.* Written by **Jay G. Foonberg,** nationally-recognized authority on law office economics and management, and published by the American Bar Association. A "nuts-and-bolts" approach for the lawyer entering the economic arena of private practice on his own. Price $10.

To order any of these publications please send check to Alaska Bar Association, P.O. Box 279, Anchorage, Alaska 99501.

TVBA MINUTES...

[continued from page 6]

Jackson raised a point of order.

The Party Committee got a modest round of applause. Everyone agreed to clap with real enthusiasm if and when **Mike Lessmeier** shows his face at another meeting.

Dick Burke complained about poor service on the North Slope. It was suggested that he sit closer to the kitchen and noted that, at his age, any service is good service. Burke then said that Groseclose was not an inspiring leader in the tradition of **Connelly** and **Kleinfeld.** Several people woke up and left. The Food Committee was re-formed and consists approximately of Kleinfeld, Savell, **Robson** and Burke.

Savell got proctors for the bar exam. There was much articulated concern, but little action, regarding Law Day. **Will Schendel** announced an upcoming ALSC Board Meeting and invited comments from the body. There were none. **Dave Call** read a letter by an absent **Mary Nordale** endorsing someone for something, but Dave was rather tongue in cheek about the whole thing. Things slowed down a bit and the meeting adjourned.

Paul Canersky,
Secretary

Minutes of the February 27, 1981 Meeting of the Tanana Valley Bar Association

The secretary was absent and was later advised that no one was appointed to take minutes since there was a guest speaker and the Tanana Valley Bar Association had what passes for a serious meeting.

Paul Canarsky
Secretary

Minutes of the March 6, 1981 Meeting of Tanana Valley Bar Association

The meeting was called to order by President **Bob Groseclose.** The minutes were maligned, but eventually approved. The lone guest was **Terry Agleitti, Esq.,** from Anchorage, who was introduced, to a stupendous round of applause, by **Michelle Minor.** People made off color jokes about **Harry Davis'** jacket, but Harry, who can handle a little friendly kidding with the best of them, remained superficially calm.

The president read a letter from **Clerk of Court Robert D. Bacon,** which letter mocked the TVBA and defended the Supreme Court. We decided to retaliate by inviting Mr. Bacon to one of our meetings (motion by Savell, second by DeWitt, passed on voice vote.)

Mr. Bob announced that **Maurine** the librarian is missing the Borough Code and A.S. Titles 26-37, as well as her appendix.

Pat Aloia announced **Jane Kauvar's** appointment to the District Court Bench on March 27, 1981. The TVBA will give a party later, though details are vague. **Judge Blair** advised that **Wolfgang Falke** had been denied a library key by the Supreme Court, though none of the members present could understand a) why anyone would ever want to get into the law library or b) why Falke had been given the cold shoulder.

Planning for Law Day activities is apparently proceeding at a blistering pace. **Dick Savell** thanked the bar proctors. **Dick Burke** reported no new news on North Slope service. **Chris Zimmerman** recommended the cheese surprise.

Judge Blair made his weekly hilarious comment about Dick Savell's height, but Savell didn't (or couldn't) rise to the bait. There was an extended discussion regarding the temperature of **Judge Hodges'** courtroom and the people therein, as well as the use (or possible abuse) to which the judge exposes a thermometer which is reportedly on his bench; however, everyone left before the discussion got too heated.

Nothing else happened and the meeting ended.

Paul Canarsky
Secretary

CLE Schedule

July 21 (Anchorage)
Sheraton Anchorage

"Federal Practice Seminar," with Professor **Arthur R. Miller,** co-author of the series *Federal Practice and Procedure,* and author of *The Assault on Privacy: Computers, Data Banks, and Dossiers.*

August 15-23 (Alyeska)

"NITA of the North II," an intensive nine-day trial advocacy program for Alaskan attorneys. Cosponsored by the Alaska Bar Association and the National Institute of Trial Advocacy.

September 10 (Fairbanks)
September 11 (Anchorage)

"Loss Prevention and Professional Ethics Seminar," presented by INA, and the Bar's Ethics and Professional Risk Management Committees.

October

An "Appellate Practice Symposium" combined with a program on "Practice Before the Ninth Circuit Court of Appeals." Presented by the ABA's Appellate Practice Section and the Ninth Circuit Court of Appeals' CLE Division, in cooperation with the Alaska Bar.

October

"Business Law Seminar," presented by the Alaska Bar's Business Law Section.

October

"Tax Law Seminar," presented by the Alaska Bar's Taxation Law Section.

November 5-8 (Anchorage)

"Out-of-Court Skills," a program that teaches the general skills of interviewing, counseling, and negotiating which are required in any law practice. An ABA pilot project cosponsored by the Alaska Bar.

November

"State Tax Conference," presented by the Alaska Society of CPA's and the Alaska Bar's Taxation Law Section.

January 1982

"Torts Law Seminar," presented by the Bar's Torts Law Section.

February

"Judges Educate Inexperienced (and experienced) Trial Attorneys Seminar." A walk-through program emphasizing the mechanical and physical procedures needed to be taken by the counsel, from the moment he/she comes into the courtroom until the trial is completed. Sponsored by the Alaska Bar in cooperation with Alaska trial court judges.

March

"Family Law Seminar," presented by the Bar's Family Law Section.

March 19-23 (Hawaii)

"Medical-Legal Seminar," the Alaska Bar's mid-winter CLE program. Cosponsored by the Alaska Bar Association and the Alaska Medical Association.

For additional information on any of these programs, contact **Jennifer Ortiz,** CLE Coordinator for the Alaska Bar, at 272-7469.

Prepaid Legal Services Committee Needs Members

Any Bar member interested in serving on the Prepaid Legal Services Committee, a special committee of the Bar, please contact **Chairperson Art Robson, 3568 Geraghty St., Fairbanks 99701 (479-6281)**

BAR RESULTS...

[continued from page 2]

FEDOR, Adrienne P.
FONTAINE, D. Monita W.
FOOR, Peter B.
FOX, Martha A.
FRIDERICI, James B.
GEORGE, David E.
GOUWENS, Kay E. M.
HAFFNER, Rosemary P.
HARRINGTON, Andrew R.
JOHNSON, Mark K.
KENTCH, James B.
KUCKO, Sally J.
LEQUE, John A.
MAASSEN, Peter J.
MARSH, Michael S.
McCLINTOCK, III, Donald
McGUIRE, Kathleen I.
McKEEN, Mary Alice
MORROW, Jo Anne
MORSE, William F.
MOTYKA, Gregory J.
MULDER, Steve E.
NEEDHAM, William T.
NELSON, Lou Anne
OBERLY, William B.
OESTING, David W.
ORLANSKY, Susan C.
PENGILLY, Charles R.
POWERS, Kenneth C.
RICHARD, John M.
ROBINSON, Kevin S.
ROHRBACK, James P.
ROMO, Leslie D.
REUSING, Michael V.
SACKS, Steven B.
SAUPE, Alfred W.
SCHAEFER, George F.
SHARROCK, Susan R.
STILLNER, Walter
TALLEY, John M.
THOMAS, Susan J. Baluzy
TRAVOSTINO, Joan M.
TRUDELL, Patrick A.
VANDERCOOK, Marcia L.
WOODRUFF, Rodney N.
WORCESTER, Mark P.

More News from Tanana Valley

Minutes of the May 22, 1981 Meeting of the Tanana Valley Bar Association

President Groseclose called the meeting to order. Although there were a few exceptions, it can generally be said that the only thing more exasperating than the unending tediousness of the meeting was its interminable length.

The meeting adjourned.

PAUL CANARSKY
Secretary

Minutes of the March 13th Meeting of the Tanana Valley Bar Association

The air was heavy. An eerie aura of subdued anticipation gripped the assemblage of largely lethargic litigants. **President Groseclose** was gone, and his absence contributed to the uncertainty of the moment.

The meeting began at 12:30 with **Vice President Dewitt** conducting. As Dewitt rose to address the membership his nostrils flared highlighting remnants of mashed potatoes in his unkempt mustache and traces of butter on the tip of his nose. The Vice President opened his mouth to speak and a trail of gravy oozed graciously from his lower lip. The gravy vaulted over the rugged edges of the Vice President's protruding chin and made a path down his neck and onto his tie where it came to rest comfortably near the salad dressing.

Respectfully submitted this 17th day of March, 1981.

Ralph R. Beistline
Acting Secretary

Minutes of the March 20, 1981 Meeting of Tanana Valley Bar Association

Things were awful dark and gloomy on that strange, yet wondrous day,

You may mark it as the March 20 meeting of the old TVBA.

Groseclose called us all to order; the minutes, read, and approved.

Then to strike **DeWitt's** name therefrom **Dave Call** vainly moved.

Upon the crowd a hush befell as **Art** moved to the fore,

And announced the coffer's contents as $1,380, and some more.

Art then advanced to eating, the Law Day spokesman spoke,

Court tours, school speaks, free movies, we'll soon again be broke.

Dave Call opined, he's so unkind, "Alaskaland's too small",

For all our May Day merriment, we'll need a larger hall.

Dick Burke's now served in Barrow and we like the way we're fed,

Our Board met by teleconference; strike two, the umpire said.

The crowd rose to its feet; "Kill Bob, Kill Bob", they cried,

Madson laughed obscenely; he was, by then, pie eyed.

With a smile of pagan charity, **Fred Brown's** great visage shone,

He calmed the savage Madson and he bade the lunch go on.

Jim Bradley's on a council, Judicial seems to me,

Legal Services may go bankrupt, the umpire called "Ball three."

Connelly's Committee's convening Wednesday's, in his chambers on third floor,

So if you don't feel like playing, at least help **Hugh** keep score.

Oh, somewhere hearts are cheerful, and somewhere children shout,

And now there's joy in Fairbanks for these minutes have run out.

Paul Canarsky
Secretary

DILLINGHAM REPORTS...

[continued from page 6]

tion that justice is possible out here. Villagers who lost their right to fish forever because they didn't answer their mail on time back in 1975, and their children who cannot obtain a permit while others buy and sell them like Arizona water rights, are understandably slow to recognize the advances made in the delivery of services in other areas. The Entry Commission, which knows of the problems and proposes no legislation, says a lot about bush justice.

Anyway, that's some news and views from Dillingham. About 10 lawyers practice out here (half live here), and I'll bet most read the *Bar Rag*. We'd like to hear from whomever practices down in Wrangell, or up in Nome (come on, John), or maybe in Yakutat. You folks must keep a pretty low profile too, whoever you are. Write a story — if these people print the news from King Arthur's lost band in the Tanana Valley, they'll print anything.

No Money for Lay

While the legislature added three lay persons to the Board of Governors of the Alaska Bar, it failed to pass a fiscal note which would provide funds from which to pay their expenses. Since the Bar no longer receives any money from the State, there remains a question as to the potential sources of compensation and travel and per diem expenses for the new lay members. Unless the Board of Governors or the legislature acts they may have to pay their own way.

PEGUES...

[continued from page 1]

has become known as an authority on separation of powers, statutory construction and equal protection.

Original Alaskan

The father of four, Pegues is married to **Donna Spragg Pegues**, co-revisor of statutes and former clerk of the Supreme Court. Pegues was born in Juneau, where he went to grade school and high school. He is the author of "The Juvenile Offender and Self-Incrimination," 40 U. of Wash. L. Rev. 189 (1965). He is a former president of the Juneau Bar Association, and former member of the Board of Directors of the Juneau Teen Center.

Multiple Rule Revisions Proposed by B.O.G.

Proposed Amendments to Alaska Bar Rule 4

A. Section 4 of Alaska Bar Rule 4, entitled "Examinations," is amended as follows:

Section 4. The Board shall determine the qualifications of each applicant upon the basis of the report of examination, the recommendations of the Executive Director, and such other matter it may consider pertinent under these rules. The Board shall certify to the Supreme Court the results of the bar examination and its recommendations as to those applicants who are determined qualified for admission to the practice of law who have complied with the provisions of Rule 5 (6). Notice of the Board's determination shall be provided in writing to each applicant. Notice to an applicant determined not qualified shall state the reason for such determination *and shall advise the applicant of his right to appeal and the procedure therefor.*

B. Alaska Bar Rule 4 is amended by adding a new section to read:

Section 5. The Board may, if it concludes such action to be warranted on the basis of the reports of the character examination and of the executive Director, inform the applicant that it will maintain a record of the prior actions of the applicant or proceedings against him which shall be available to the Disciplinary Administrator for consideration in any future disciplinary proceeding.

C. The succeeding sections of Alaska Bar Rule 4 are renumbered accordingly.

Proposed Amendments to Alaska Bar Rule 6

A. Section 3 of Alaska Bar Rule 6, entitled "Review," is amended to read:

Section 3. In any appeal the applicant shall have the burden of proving the material facts upon which he relies, *except that if the applicant has been denied an examination permit or certification to the Supreme Court on the basis of his lack of good moral character, the burden shall be on the Bar Association to prove lack of good moral character. The party upon whom a burden of proof is placed must discharge that burden by a preponderance of the evidence.*

B. Section 4 of Alaska Bar Rule 6 is repealed and reenacted to read:

Section 4. The President shall determine whether an appeal shall be heard by a master or by the Board. If the President determines that the appeal shall be heard by a master, he shall appoint as master an active member of the Association. Not less than twenty days before the hearing, the Executive Director shall give the applicant notice of the date of the hearing, [WHETHER THE HEARING IS TO BE HEARD BY THE BOARD OR BY A MASTER,] and the identity of the master, if any.

C. Section 7(c) of Alaska Bar Rule 6 is amended to read:

(c) Where an examinatin permit *or certification to the Supreme Court* has been denied on the basis of character, the applicant [HAS A RIGHT TO INSPECT MINUTES OF ANY MEETING OF THE BOARD OF GOVERNORS AT WHICH HIS APPLICATION HAS BEEN DISCUSSED, TOGETHER] *shall be provided* with a statement of the specific grounds upon which denial of the permit was based.

Proposed Amendments to Alaska Bar Rule 7

A. Section 1 of Alaska Bar Rule 7, entitled "Procedures," is amended to read:

Section 1. All hearings [BEFORE THE MASTER] shall be electronically recorded [WITH THE FACILITIES PROVIDED BY THE ALASKA COURT SYSTEM]. The transcript of testimony and exhibits, together with all *documents* [PAPERS AND REQUESTS] filed in the proceedings, shall constitute the [EXCLUSIVE] record for decision. The record may be destroyed two years following the last date upon which administrative appeal rights may be available under the provisions of this Rule.

B. Alaska Bar Rule 7 is amended by adding a new section to read:

Section 3. If the Board conducts the appeal hearing, it shall have all authority set forth in Section 2(a) through (i) of this Rule.

C. All succeeding sections of Alaska Bar Rule 7 are renumbered accordingly.

D. Section 4 (formerly Section 3) of Bar Rule 7 is amended to read:

Section 4. The Alaska Rules of Civil Procedure shall not apply to proceedings held pursuant to Rule *I-6* [I-7].

E. Section 6 of Bar Rule 7 is repealed and reenacted to read:

Section 6. If the hearing is conducted before a master, the master shall prepare findings of fact, conclusions of law, and a proposed decision, and transmit them to the Board together with the record, which he shall cause to be certified to the Board. A copy of the record shall be provided to the applicant upon his payment of costs, and shall in any event be available for review by the applicant. The proposed decision shall be served on the applicant and the Executive Director and either party may file a brief with the Board within twenty days after such service.

F. Section 7 of Bar Rule 7 is repealed and reenacted to read:

Section 7. The Board shall consider the master's proposed decision, and the record and briefs, and may in its discretion hear oral argument, after which it shall either adopt the decision of the master, in whole or in part, or render its own findings of fact, conclusions of law, and decision. If the Board conducts the appeal hearing, it shall give each party the opportunity to submit written final briefs, and shall enter findings of fact, conclusions of law, and a decision.

Proposed Amendments to Alaska Bar Rule 26

Alaska Bar Rule 26, entitled "Disbarred or Suspended Attorneys," is amended as follows:

(a) A disbarred *attorney or an attorney suspended for more than 60 days* [OR SUSPENDED ATTORNEY] shall promptly notify by certified or registered mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of his disbarment or suspension and his consequent inability to act as an attorney after the effective date of his disbarment or suspension and shall advise said clients to seek legal advice elsewhere.

(b) A disbarred *attorney or an attorney suspended for more than 60 days* [OR SUSPENDED ATTORNEY] shall promptly notify, or cause to be notified, by certified or registered mail, return receipt requested, each of his clients who is involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of his disbarment or suspension and consequent inability to act as an attorney after the effective date of his disbarment or suspension. The notice to be given to the client shall advise him of the necessity to the prompt substitution of another attorney or attorneys in his place.

In the event the client does not obtain substitute counsel before the effective date of the disbarment of suspension, it shall be the responsibility of the disbarred or suspended attorney to move in the court or agency in which the proceeding is pending for leave to withdraw.

The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the disbarred or suspended attorney.

(c) *An attorney suspended for 60 days or less shall cause to be notified by certified or registered mail, return receipt requested, all clients in pending matters, and each attorney or attorneys for adverse parties in any pending litigation or administrative proceedings, that he will be unavailable for the period of time specified in his suspension. He shall advise his clients of their ability to seek substitution of counsel where his unavailability might prejudice the client's rights. He will arrange for alternate representation where necessary. During the pendency of his suspension, he shall cease all practice of law, including the acceptance of any new clients. The fact that he is unavailable due to suspension need not be revealed when declining to accept new clients.*

(d) [(c)] Orders imposing suspension or disbarment shall be effective 30 days after entry, unless otherwise ordered by the Court in the order imposing discipline. The disbarred or suspended attorney, after entry of the disbarment of suspension order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order to its effective date he may, unless otherwise ordered by the Court in the order imposing discipline, wind up and complete, on behalf of any client, all matters which are pending on the entry date.

(e) [(d)] Within 10 days after the effective date of the disbarment or suspension order, the disbarred or suspended attorney shall file with the Court an affidavit showing: (1) that he has fully complied with the provision of the order and with these rules; (2) all other state, federal and administrative jurisdictions to which he is admitted to practice; and (3) that he has served a copy of such affidavit upon the Administrator. Such affidavit shall also set forth the residence or other address of the disbarred or suspended attorney where communications may thereafter be directed to him.

(f) [(e)] The Board shall cause a notice of *a* [THE] suspension *longer than 60 days* or disbarment to be published in all legal journals and legal newspapers published in this State, and in a newspaper of general circulation in the judicial district in which the disciplined attorney maintained his practice.

(g) [(f)] The Board shall promptly transmit a certified copy of the order of suspension or disbarment to the presiding judges of the Superior Court and District Court in each judicial district in the State, to the presiding judge of the United States District Court for the District of Alaska and the Attorney General for the State of Alaska with the request that he notify the appropriate administrative agencies. The presiding judges shall make such further orders as they deem necessary to fully protect the rights of the clients of the suspended or disbarred attorney.

(h) [(g)] A disbarred or suspended attorney shall keep and maintain records of the various steps taken by him under these rules so that, upon any subsequent proceeding instituted by or against him, proof of compliance with these rules and with the disbarment or suspension order will be available. Proof of compliance with the rules shall be a condition precedent to any petition for reinstatement.

Proposed Amendments to Alaska Bar Rule 27

Alaska Bar Rule 27, entitled "Reinstatement," is amended to read:

(a) No attorney suspended or disbarred may resume practice until reinstated by order of the Court.

(b) *An attorney* [A PERSON] who has been disbarred *by order of the Court* [AFTER A HEARING] or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

(c) Petitions for reinstatement by disbarred [OR SUSPENDED] attorneys shall be filed with the Court and served upon the Board. Upon receipt of the petition, the Board shall refer the petition to a Hearing Committee in the disciplinary area in which the Respondent maintained an office at the time of his disbarment [OR SUSPENSION]. The Hearing Committee shall promptly schedule a hearing at which the Respondent shall have the burden of demonstrating by the preponderance of the evidence that he has the moral qualifications, competency, and learning of law required for admission to practice law in this State and that his resumption of the practice of law within the State will be neither detrimental to the integrity and standing of the Bar or the administration of justice nor subversive of the public interest. At the conclusion of the hearing, the Hearing Committee shall promptly file a report containing its findings and recommendations and transmit same, together with the record, to the Board. The Board shall review the report of the Hearing Committee and the record and shall file its own conclusions and recommendations with the Court, together with the record. The petition shall be placed upon the calendar of the Court for oral argument either at the next session of the Court sitting in the judicial district in which the Hearing Committee sat or, within 60 days, without regard for where the Court may then be sitting, whichever occurs first.

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The Capital City of Alaska Was Named After Its First Police Chief

by Gerald O. Williams
Juneau Bar

It is a little known historical fact that the first name that was applied to the gold mining community on Gastineau Channel, now known as Juneau, was "Rockwell," and the town was named after its first chief of police. In August of 1880 the two prospectors Joe Juneau and Pete Harris first discovered gold in the sands of Gold Creek. When they returned to Sitka and had their find assayed, they discovered that they were $30,000 richer. The wildest excitement prevailed far and wide about the new discovery and people hurried in rowboats, sailboats and anything that could carry them to the sands of Gold Creek.

Town Arises

In an incredibly short time a town sprang up around the creek, a rough and ready bustling mining camp which settled itself on the small plateau at the foot of the two mountains later named Roberts and Juneau. By the spring of the following year, 1881, the great value of the potential gold-bearing quartz in the area had been realized and 150 whites and 450 Indians of the Auke tribe had congregated in the area. Frequent disputes as to the ownership of property in the town and on the quartz ledges began to occur.

Naval Oversight

At the time, the Federal Government in Alaska was represented exclusively by the U.S. Navy, and the commander of the Sloop of War *Jamestown* anchored in Sitka harbor was the de facto Governor of the Territory. Commander Henry Glass was the senior naval officer to Alaska at the time and when he heard about the growth in the bustling mining community he felt there was an imperative necessity to control the lawless elements which were usually attracted to new mining areas. During the preceding winter, Glass had kept up communications with the mining community by means of *Jamestown*'s steam launches. In April, he dispatched his Executive Officer Lt. Commander C.H. Rockwell to visit the community and report his observations and recommendations. On his return to Sitka, Rockwell reported to Glass who decided to make a personal visit to the mining camp.

Threats of Violence

The reports of the value of the discoveries on Gastineau Channel had been received as far south as San Francisco, and this had led to a rush of prospectors and miners headed for Alaska. The majority of these men lived the rough life of the mining camps and were accustomed to little restraint except that imposed by the bowie knife and revolver and the occasional administrations of Judge Lynch.

During the winter and while awaiting the melting of the winter snows to allow the exposure of the quartz ledges, these men had indulged the most extravagent ideas of the richness of the lode and had brought themselves to a high state of excitement. A straggling townsite had been laid out and town lots had been claimed and held for high figures.

Conflicting claims both in the town and particularly along the borders of Gold Creek had soon led to threats of violence. Some of the miners, knowing of the condition in which Alaska had been left so long by Congress, without civil law or government, openly declared that "there is no law in Alaska" and proposed to exercise the law of individual might in settling where their claims should be located.

Military Law

Commander Glass felt that it was his duty to use the force at his disposal to provide law enforcement in the community to prevent disturbances and violence. On May 5, 1881 he called all of the miners together, and read to them a proclamation by which he proposed to place the entire community under military law for the preservation of order. The proclamation by its terms avoided interference with all rights to property already acquired. A copy of the proclamation was contained in Commander Glass's report to the Secretary of the Navy.

> Notice is hereby given that considering the absence of any form of civil government in the Territory of Alaska, and the liability that acts of violence threatening the safety and lives and property of citizens may occur at any time, and also considering the necessity of preventing such acts, I Henry Glass, a commander in the United States Navy, and senior United States Officer in the Territory, do announce that until instructions to the contrary are received from the President of the United States, the military authority will be the only government recognized, and all residents of the Territory will be governed in accordance with military law. This announcement will not affect the operation of any local mining laws properly established, not in conflict with the United States Statutes, and is not intended to affect in any way rights to property now held or to be acquired in accordance with such laws.
>
> HENRY GLASS
> Commander, U.S.N.

Naturally, some opposition was manifested by the more turbulent portion of the small community to such an innovation in mining camp rule. However, the better disposed persons, who were in the majority, supported it, regarding the military administration of justice as preferable to the irresponsible rule of Lynch Law.

Town Plat

One of the first steps that Commander Glass took to bring order into the community and to settle property disputes, was to direct that an officer make a careful survey of the town plat. The plat was completed utilizing the local mining records and recording descriptions of all property titles.

A reservation for government purposes was selected at a site which commanded the mining camp and the Indian village. Early records describe it as being a plateau which bisected the two communities and it was most likely located in the vicinity of the present Governor's Mansion. In a few days the miners saw the entirely new spectacle of a naval officer stationed among them with a force of blue jackets and marines under his command sufficient to suppress any disorder.

The executive officer of the *Jamestown*, Lieut. Commander Charles H. Rockwell, was selected for this duty, and a force assigned to him consisting of twenty-five officers and men, with a boat howitzer and a Gatling Gun. The hill was christened "Navy Hill" and the small garrison proceeded to replace their tents with suitable frame barracks buildings.

No Murders

The new community had not yet been named, and the early naval records and newspaper stories refer to it as "Rockwell" the name of the community's first naval governor and de facto chief of police.

Commander Rockwell by his cool and firm administration of the community, and the just settlement of the many disputes referred to him for arbitration soon won the confidence of the miners and Indians, alike. Affairs in the town proceeded with the regularity and discipline of a man of war, and it was soon a subject of remark among the miners of longest experience that Rockwell was the most orderly mining camp ever known on the Pacific Coast. It also enjoyed the singular distinction of being one in which no murder was committed during the time it was administered under naval rule.

Justice Appreciated

Commander Rockwell found in all his dealings with the Alaskan Native peoples that they had a high sense of justice and respect for white men of character. Rockwell found that they could be easily controlled when convinced that any system of government was just and equal in its operation. A case in point occurred in the summer of 1881 when the chief of the Auke Indian tribe approached Commander Rockwell for assistance. The chief was accompanied by a number of his warriors and asked the naval officer to aid them in adjusting a claim some of the members of the tribe had against a white store operator.

After a brief investigation and hearing the claim was admitted by the trader to be just, and a settlement satisfactory to the Indians was agreed upon. The chief was thoroughly pleased with the result and expressed his approval of the new mode of settling disputes. He explained to Rockwell that it would have been quite easy for him to have obtained satisfaction in the usual way—by killing the trader at the first convenient opportunity—but that he had heard of the newly established system of administering justice by the navy, and had decided to give it a trial. He had, however, reserved for himself the option of falling back upon the traditional method of retribution if justice or a fair hearing had been denied him.

Native Law

The naval officers were also called upon to adjudicate disputes involving Indians by utilizing the customary law of the Thlingits. Rockwell passed sentence on an Indian who had injured his squaw in a drunken rage. He imposed the penalty of committing the Indian to one month's confinement and a fine of 50 blankets. Ten of the blankets were given to the injured woman, and the remainder to the chief of the clan for distribution among the poor.

Late in 1881 the Sloop of War *Jamestown* which had been on duty in Alaska for two years was replaced by a steam warship. the U.S.S. *Wachusett*. This vessel was eminently more suitable for the service which the Navy was required to perform in Alaska. Since it was easily capable of reaching the mining settlement at Juneau, the new naval commander proposed in the summer of 1882 to withdraw the naval shore force from the community. The miners and tradesmen were informed of this decision and they united in a petition to have the naval force remain. Even those who at the beginning had been loudest in their opposition to being governed by the military announced their preference for continu-

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MORE RULES...

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(1) [(d)] In all proceedings upon a petition for reinstatement, cross-examination of the Respondent's witnesses and the submission of evidence, if any, in opposition to the petition shall be conducted by the Administrator.

(2) [(e)] The Court, in its discretion, may direct that the necessary expenses incurred in the investigation and processing of a petition for reinstatement be paid by the Respondent.

(d) An attorney who has been suspended by order of the Court or by consent and who seeks reinstatement shall, ninety (90) days prior to the ending date of the suspension, file with the Court and serve upon the Board a petition for reinstatement. The petition shall affirm under oath (1) the names and addresses of all employers during the period of suspension; (2) the scope and content of the work performed by the attorney for each such employer; and (3) the names and addresses of at least three character witnesses who had knowledge of the suspended attorney during the period of suspension. The attorney shall be reinstated by automatic court order unless a petition to extend suspension is filed by the Administrator with the Court and served upon the Board and the suspended attorney at least sixty (60) days prior to the ending date of the suspension. The petition shall state (1) the basis for the original suspension, (2) the ending date of the suspension, and (3) the facts which the Administrator believes demonstrate that the suspended attorney should not be reinstated. Upon receipt of such a petition, the Board shall refer the petition to a Hearing Committee in the disciplinary area in which the Respondent maintained an office at the time of his suspension or where the Respondent has resided for the majority of time suspended, if within Alaska. The Hearing Committee shall promptly schedule a hearing at which the Administrator shall have the burden of demonstrating by the preponderance of the evidence that the suspended attorney lacks the moral qualifications or competency or learning of law required for admission to practice law in this State and that his resumption of the practice of law within the State will be either detrimental to the integrity and standing of the Bar and the administration of justice or subversive of the public interest. The Hearing Committee, the Board, and the Court, when hearing or reviewing this matter, shall act in accordance with the procedures outlined in section (c) of this Rule.

Proposed Amendments to Alaska Bar Rule 28

A. Section (b) of Alaska Bar Rule 28, entitled "Proceedings Where an Attorney is Declared to be Incompetent or is Alleged to be Incapacitated," repealed and reenacted to read:

(b) Upon verified petition by the Disciplinary Administrator that an attorney is incapacitated from continuing the practice of law by reason of mental or physical infirmity or illness, or because of addiction to drugs or intoxicants, and that such incapacity poses a substantial threat of irreparable harm to his clients or to prospective clients, the Court, or a single justice thereof, shall hold a hearing on the petition. At the hearing, the Court shall determine whether the attorney is incapacitated from continuing the practice of law by reason of medical or physical infirmity or illness or because of addiction to drugs or intoxicants, and whether such incapacity justifies the transfer of the attorney to inactive status on the grounds of such disability, for an indefinite period and until further order of the Court. If the attorney is so transferred, any pending disciplinary proceedings against the attorney may, at the discretion of the Board of Governors, be stayed pending the removal or cessation of such disability. The Court may appoint counsel to represent the attorney in these proceedings, if it appears to the Court that the attorney is unable to obtain counsel or to represent himself effectively, due to his disability.

B. Section (d) of Alaska Bar Rule 28 is amended to read:

(d) The Board shall cause a notice of transfer to inactive status to be published in all legal journals and all legal newsletters published in this State, and in a newspaper of general circulation in the judicial district in which the disabled attorney maintained his practice. *When the disability is removed, and the attorney is restored to active status, the Board shall cause a notice of transfer to active status to be similarly published.*

Proposed Amendments to Alaska Bar Rule 37

ALASKA BAR RULE 37. VENUE OF FEE ARBITRATION PROCEEDINGS AND COMPOSITION AND APPOINTMENT OF THE COMMITTEE AND SUB-COMMITTEES.

Bar Rule 37 is repealed and reenacted to read:

(a) Fee arbitration in this state shall be divided into the following areas:

(1) First Judicial District;
(2) Third Judicial District;
(3) Second and Fourth Judicial Districts.

The fee arbitration area in which venue shall lie shall be any area in which the services for which fees are charged occurred.

(b) The committee shall consist of four (4) area standing subcommittees composed as follows:

(1) Anchorage: twenty-four (24) attorney members and eight (8) nonattorney members;

(2) Fairbanks: twelve (12) attorney members and four (4) nonattorney members;

(3) Juneau: six (6) attorney members and two (2) nonattorney members; and

(4) Ketchikan: six (6) attorney members and two (2) nonattorney members.

(c) In the event of a fee arbitration request in a community not contiguous to a community listed in (b) above, a special subcommittee may be appointed for that arbitration consisting of two (2) attorney members and one (1) nonattorney member, one of whom must be a member of a standing subcommittee.

(d) An attorney member of a subcommittee shall be an active member of the Alaska Bar Association who maintains an office for the practice of law in the fee arbitration area for which he is appointed. The attorney members of each subcommittee shall be appointed by the president of the Alaska Bar Association, subject to ratification by the Board of Governors.

(e) A nonattorney member of a subcommittee shall be a citizen of the United States at least 18 years of age and who resides in the fee arbitration area for which he is appointed. The nonattorney members of each subcommittee shall be appointed by the president of the Alaska Bar Association, subject to ratification by the Board of Governors.

(f) The term of appointment to a subcommittee shall be for three years subject to the following conditions:

(1) Appointments shall commence on July 1 of the year in which the appointment is made;

(2) if a member resigns prior to the expiration of his term, the president shall appoint a replacement to fill the unexpired term;

(3) if the term of a member expires while an arbitration is pending before him, the term shall be extended until the arbitration is concluded. His successor's appointment shall be made as if his term had concluded on time;

(4) if a member becomes the subject of a fee dispute arbitration, he shall not sit on a hearing panel during the pendency of that arbitration; if a fee dispute arises while an arbitration is pending before him, the proceeding thereon shall be stayed until the arbitration before him is concluded; and

(5) any member who fails for any reason to attend a hearing where he has been appointed to the hearing panel for two consecutive times or three non-consecutive times, may be removed from the subcommittee and the president shall appoint a new member to fill the unexpired term.

Proposed Amendments to Alaska Bar Rule 38

ALASKA BAR RULE 38. INITIATION OF PROCEEDINGS.

Bar Rule 38 is amended to read:

(a) Proceedings before the Committee shall be initiated by a written petition signed by the client. The petition must contain the following:

(1) A statement by the client of the efforts he has made to attempt to resolve the matter directly with the attorney.

(2) A statement by the client that he understands that by executing the petition [,] the determination of the Committee is binding, *that* the determination may be reviewed by a court only for the reasons set forth in AS 09.43.120 et seq., and *that* the determination *may* be reduced to judgment.

(3) A statement of the dispute (including any amounts in dispute) that he has with the attorney in as specific terms as possible.

(4) A statement of the remedy the client seeks from the Committee against the attorney.

(b) Upon filing the petition at the office of the Association, the *Bar Counsel* [EXECUTIVE DIRECTOR] of the Association shall review the petition to determine if the client has made reasonable efforts to resolve the dispute with the attorney prior to the filing of the petition. If the *Bar Counsel* [EXECUTIVE DIRECTOR] determines that the client has not adequately attempted to resolve the dispute informally, or that the petition is otherwise incomplete, the petition shall be returned to the client with a letter from the *Bar Counsel* [EXECUTIVE DIRECTOR] specifying to the client what steps shall be taken by the client to attempt to resolve the matter informally or *requiring the client* to complete the petition before the Association will accept the petition.

(c) After the *Bar Counsel* [EXECUTIVE DIRECTOR] has determined that the client has made adequate efforts to resolve the dispute informally with the attorney and that the petition is otherwise complete, the *Bar Counsel* [EXECUTIVE DIRECTOR] shall forthwith notify both the client and the attorney of the acceptance of such petition and further notify both that the matter shall be held in abeyance for a period of ten (10) days in order for both the client and the attorney to have the opportunity of settling the matter without action by the Committee. Such notification shall also advise both parties that, if the matter is not settled within the ten (10) day period, it shall be referred to the appropriate hearing panel. [THE EXECUTIVE DIRECTOR, UNLESS INFORMED THAT THE MATTER HAS BEEN SETTLED, SHALL REFER IT TO THE CHAIRMAN OF THE APPROPRIATE PANEL AT THE END OF THIS TEN (10) DAY PERIOD.]

(d) At the end of the ten (10) day period, if he has not been informed that the matter has been settled, the Bar Counsel shall select a hearing panel from the members of the appropriate standing subcommittee. The hearing panel shall consist of two attorney members of the subcommittee and one non-attorney member of the subcommittee. The Bar Counsel shall appoint one of the attorney members of the hearing panel to serve as chairman of the panel.

Proposed Amendments to Alaska Bar Rule 39

ALASKA BAR RULE 39. HEARINGS.

Bar Rule 39 is amended to read:

(a) The *Bar Counsel* [EXECUTIVE DIRECTOR] shall, at the time the matter is forwarded to the chairman of the appropriate panel and at least 20 days in advance of the hearing, give written notice to the client of the time and placing of the hearing. The notice of the hearing shall also advise the client of his right to present witnesses and to submit documentary evidence in support [,] of his position, to have the hearing recorded on tape and later, at his own expense, to request a transcript of the recording, and to be represented by an attorney at law. A similar notice shall at the same time be sent to the attorney. No response to a petition is required, and all material allegations are deemed denied. All notices shall be sent by certified mail, return receipt requested.

(b) Continuances will be granted only for good cause and when absolutely necessary. Application for continuance shall be made to the chairman of the appropriate panel. An application must be made at least 10 days prior to the date for hearing unless good cause is shown for making the application subsequent to that time.

(c) *Each panel shall meet at a time and place convenient to both the client and the attorney as arranged by Bar Counsel.* [EACH PANEL SHALL MEET, IF THERE ARE PENDING MATTERS, ON THE SECOND TUESDAY OF EVERY MONTH AT 7:00 P.M. IN A DESIGNATED COURTROOM IN THE LOCAL SUPERIOR COURT. THE EXECUTIVE DIRECTOR, FOR GOOD CAUSE SHOWN, MAY FIX A DIFFERENT TIME OR PLACE FOR THE MEETING.]

(d) Each panel shall act only with the concurrence of a majority of its members sitting for the transaction of the matters before it. Three members shall constitute a *panel and the* quorum, one of which shall be the nonattorney member [, OR, IF THE NONATTORNEY MEMBER IS UNABLE TO SIT FOR ANY MATTER, THE NONATTORNEY ALTERNATE]. The chairman of the *panel* [COMMITTEE] shall preside at the hearing and have the powers relating to the conduct of the hearing. He shall judge the relevancy and the materiality of the evidence offered and shall rule on all questions of evidence and procedure.

(e) Either party may submit a written statement in lieu of or in addition

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Proposed Amendments to Alaska Bar Rule 41

ALASKA BAR RULE 41. APPEAL.

Bar Rule 41 is amended to read:

Should either party appeal the matter to the superior court under the provisions of AS 09.43.120-180, the appeal shall be filed with the clerk of the superior court in accordance with Appellate Rules 601 through 609, and notice of such appeal must be filed with the *Bar Counsel* [EXECUTIVE DIRECTOR] of the Bar Association.

Be Advised

The Federal District Court has implemented new Local Admiralty Rules, effective June 23, 1981. Copies can be obtained from the clerk of court.

AND MORE RULES...

[continued from page 12]

to presenting evidence at the hearing. Such written statement must be filed with the *Bar Counsel* [EXECUTIVE DIRECTOR] and served on the other party at least 10 days before the date set for hearing. The other party may, within three days prior to the date set for hearing, respond to the parties written statement. The other party may require the party filing the written statement to appear at the hearing and be subject to cross-examination by filing with the *panel* [COMMITTEE] and mailing to the party whose presence is required a notice of intention to cross-examine that witness within five days prior to the date set for hearing. It shall be the responsibility of the person upon whose behalf the witness is appearing to insure the appearance of the witness. Such notice must be made in good faith and not with an intention to cause delay or inconvenience. The *panel* [COMMITTEE] may award expenses of appearance if it determines that the notice was filed solely for the purpose of causing delay or inconvenience.

(g) In the event the matter involves an amount less than *$2,000.00* [$500.00], it may be heard, in the discretion of the *Bar Counsel, and with the concurrence of the attorney and client, by a single subcommittee member alone* [CHAIRMAN, BY THE CHAIRMAN SITTING ALONE].

(h) A *subcommittee* [COMMITTEE] member must disqualify himself from hearing any action in which: (1) he is a party or is directly interested; (2) he was not present and sitting as a *panel* member at *a* [THE] hearing of *a* [THE] matter when it was submitted for the *panel's* [COMMITTEE'S] decision; (3) he is a material witness; (4) he is related to either party by consanguinity or affinity within the third degree; (5) he has been retained by either party as an attorney or he has professionally counseled either party in any matter within two years preceding the filing of the petition; or (6) he feels that, for any reason, he cannot give a fair and impartial decision. Provided, that in the instances specified in (4) and (5), disqualification shall be deemed waived unless raised by challenge to said member filed by any party with the *Bar Counsel* [EXECUTIVE DIRECTOR] not later than 10 days following notice to the parties of the relationship between the member and a party. The *Bar Counsel* [EXECUTIVE DIRECTOR] shall relieve the challenged member of his obligation to participate in the matter if the challenge is well taken, *and shall make a replacement from the appropriate subcommittee.* [A REPLACEMENT SHALL NOT BE APPOINTED IF A QUORUM EXISTS EVEN IN THE ABSENCE OF A CHALLENGED MEMBER. OTHERWISE, THE EXECUTIVE DIRECTOR SHALL REQUIRE THE SENIOR MEMBER OF THE BOARD OF GOVERNORS IN THE AREA WHERE THE PANEL SITS TO DESIGNATE AN ADDITIONAL MEMBER OF THE PANEL.

(i) If either party files an affidavit alleging under oath that he believes that he cannot obtain a fair and impartial hearing before a named member of a *panel* [HEARING COMMITTEE], the *Bar Counsel* [EXECUTIVE DIRECTOR] shall at once, and without requiring proof, relieve the challenged member of his obligation to participate in the matter. *A replacement shall be designated by Bar Counsel.* [A REPLACEMENT SHALL NOT BE APPOINTED IF A QUORUM EXISTS IN THE ABSENCE OF THE CHALLENGED MEMBER, OTHERWISE A REPLACEMENT SHALL BE THE SENIOR MEMBER OF THE BOARD OF GOVERNORS IN THE AREA WHERE THE PANEL SITS.] The affidavit shall contain a statement that it is made in good faith and not for the purpose of delay. The affidavit shall be filed not later than ten (10) days prior to the date set for hearing. Each party shall be entitled to one challenge under this paragraph.

(j) If any party to an arbitration who has been duly notified fails to appear at the hearing, the panel may proceed with the hearing and determine the controversy upon the evidence produced notwithstanding such failure to appear.

(k) (1) Upon written request to the chairman of the panel, the chairman may issue subpoenas for witnesses. Any attack on the validity of the subpoena shall be heard and determined by the chairman. The cost of the service of the subpoena and the transportation of the witness shall be borne by the party requesting the subpoena to be issued. Any person subpoenaed by the chairman or ordered to appear or produce writings who refuses to appear, give testimony or produce the matter subpoenaed is in contempt of the panel. The chairman may report such contempt of the panel to the superior court for the judicial district in which the proceeding is being conducted. The court shall treat this in the same manner as any other contempt. The refusal or neglect of a party to respond to a subpoena or subpoena duces tecum shall constitute cause for a determination of all issues to which the subpoenaed testimony or matter is material in favor of the nonoffending party, and a final decision of the *panel* [COMMITTEE] may issue upon the basis of such determination of issues. Costs may be assessed in the case of a party's contempt.

(2) Applications for discovery, including production of documents, shall be within the discretion of the chairman of the appropriate fee arbitration panel.

(l) Each party may (1) call and examine witnesses, (2) introduce exhibits, (3) cross-examine opposing witnesses on a matter relevant to the issues, even though that matter was not covered in the direct examination, (4) impeach a witness regardless of which party first called the witness to testify, (5) rebut the evidence against himself, and (6) testify on his own behalf.

If a party does not testify on his own behalf he may be called and examined as if under cross-examination.

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. The rules of privilege are effective to the same extent that they are recognized in a civil action, except that neither the attorney nor the client may assert the attorney-client privilege with respect to the issues subject to arbitration. Irrelevant and unduly repetitious evidence shall be excluded. Any party to the arbitration has the right to be represented by an attorney at law at any hearing or at any stage of the arbitration. On request of any party to the arbitration, or any member of the panel, the testimony of the witness shall be given under oath. Where so requested, a member of the panel who is presiding at the hearing may administer oaths to witnesses testifying at the hearing.

(m) Any party may have a hearing before a panel recorded by a notary public or other person authorized to administer oaths, at his expense, by written request presented to the chairman of the panel at least three (3) days prior to the date of the hearing. In such event any other party to the arbitration shall be entitled to a copy of the reporter's transcript of the testimony at his own expense by arrangements made directly with the reporter. Where no party to the arbitration makes a request to have the hearing recorded, and the panel deems it necessary to have the hearing recorded, the panel may employ a reporter for such purpose, if authorized to do so by *Bar Counsel* [THE BOARD OF GOVERNORS OF THE ALASKA BAR ASSOCIATION].

(n) (1) All records, documents, files, proceedings and hearings pertaining to the arbitration of any dispute under these rules, shall be confidential, and shall not be open to the public or any person not a party to the dispute, except as set forth in subsection 2 of this section, unless ordered by a superior court upon good cause shown.

(2) A summary of the facts, without reference to either of the parties by name, may be publicized in all cases once the action of the Alaska Bar Association has become final.

Proposed Amendment to Article III of the Bylaws of the Association

Article III of the Bylaws of the Alaska Bar Association, entitled "Membership," is amended by adding a new Section 12 to read:

Section 12. RESIGNATION. (a) A member may resign from membership in the Association. A resignation is subject to acceptance by the Board, must be in affidavit form, and — as of the date of the affidavit — affirmatively state:

(1) that the member does not now, and will not in the future, engage in the active practice of law in Alaska;

(2) that the member has no cases pending before the Courts of this State;

(3) that the member's clients have been given proper notice of his intent to resign and that they have had sufficient opportunity to find substitute counsel without prejudice to their case;

(4) that the member has no pending discipline, fee arbitration, or client security fund matter;

(5) that the member is current on all dues payments, applicable insurance premiums, and other financial commitments with the Bar; and

(6) that the member understands that his resignation is viewed as permanent and irrevocable and, should he at any time in the future desire to return to the active practice of law in Alaska, that he would have to make application as a new admittee, subject to the provisions of Alaska Bar Rules 1 through 8, including the requirement that he sit for a bar examination.

(b) Upon receipt of such an affidavit of resignation, and if no information is received which bears unfavorably upon the member, the Board would formally accept the resignation at its next regularly scheduled meeting. Resignations received twenty (20) days prior to a Board meeting will be placed on the agenda of the next subsequent regularly scheduled meeting.

(c) Upon formal acceptance of a member's resignation, the Board will notify the Supreme Court and the clerks of court that the member has resigned from the Association, and state the effective date of that resignation.

Proposed Amendments to Alaska Bar Rule 40

ALASKA BAR RULE 40. DECISION.

Bar Rule 40 is amended to read:

(a) The panel shall render its decision within thirty (30) days after the close of the hearing. The decision of the panel shall be made by a majority of the panel and shall be based upon the standards set forth in the Code of Professional Responsibility.

(b) While it is not required that the decision be in any particular form, it should in general consist of a preliminary statement reciting the jurisdictional facts (i.e., that a hearing was held upon proper notice to all parties, that the parties were given the opportunity to testify and cross-examine and present evidence), a brief statement of the dispute, findings and the decision. It shall include a determination of all questions submitted to the panel, the decision of which is necessary in order to determine the controversy.

(c) The decision of the panel shall include a specific finding as to whether the matter should or should not be referred to the *Bar Counsel* [EXECUTIVE DIRECTOR] for appropriate disciplinary proceedings.

(d) The original of the decision shall be signed by the members of the panel concurring therein. The chairman shall forward this decision together with the entire file to the *Bar Counsel* [EXECUTIVE DIRECTOR], who shall thereupon, for and on behalf of the panel, serve a copy of the signed award on each party to the arbitration by registered or certified mail and notify the chairman of the *panel* [COMMITTEE] that the matter has been concluded.

MANDATORY C.L.E....

[continued from page 7]

(a) The Board of Governors shall designate the number of hours to be earned by participation in approved continuing legal education activities.

(b) The following standards shall govern the approval of continuing legal education activities by the Board of Governors:

1) The primary objective of any continuing legal education activity shall be to increase the participant's professional competence as a lawyer.

2) The continuing legal education activity shall deal primarily with matters related to the practice of law, professional responsibility, or the ethical obligations of lawyers.

3) Credit may be given for continuing legal education activities given by live instruction or by video tape or cassette.

4) Continuing legal education materials are to be prepared and activities conducted by an individual or group qualified by practical or academic experience.

5) Continuing legal education activities are to be accompanied by thorough, well-organized and readable written materials which are available to participants at the time of presentation, unless otherwise approved by the Board.

Supplemental Rules:

The Board may make and adopt regulations not inconsistent with these rules in the furtherance of the development of a continuing legal education program for Alaska lawyers.

Confidentiality:

The files and records of the Board of Governors, as they may relate to or arise out of any failure of a member of the Association to satisfy these continuing legal education requirements, shall be deemed confidential and shall not be disclosed except in furtherance of its duties, or upon request of the attorney affected, or pursuant to a proper subpoena duces tecum, or as directed by the Alaska courts.

Code Violations Must Cease

by Dick Ray
Bar Counsel

In recent months members of the Board of Governors have been concerned about the use of incorrect or improper forms of letterheads by various law firms. Generally, most of the problems stem from firms which list on their letterhead the names of attorneys who are not admitted to practice law in Alaska. The danger perceived is that the public will be misled into thinking that all the named attorneys are locally admitted to practice law in Alaska when they are not.

The Code of Professional Responsibility has been approved and adopted by both the Board of Governors of the Alaska Bar Association and the Supreme Court of the State of Alaska. The applicable section of the Code is DR 2-102. Of particular interest is paragraph (D) which reads:

> A partnership shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm on its letterhead and in other permissible listings *make clear the jurisdictional limitations on those members and associates of the firm not licensed to practice in all listed jurisdictions;* however, the same firm name may be used in each jurisdiction. (emphasis added)

The reference to a "partnership" does not limit the applicability of this requirement to other forms of business associations, i.e. professional corporations.

However, the Ethics Committee of the Alaska Bar Association has taken a clear-cut position against use of letterheads bearing names of attorneys not licensed to practice in Alaska and has recommended the deletion of the portion reading "however, this same firm name may be used in each jurisdiction" from the rest of DR 2-102..

> We make this recommendation because we believe that explanatory statements on the letterhead, office signs, telephone directory listings, etc. are entirely inadequate to destroy the natural implication that all persons where names are part of the firm name are entitled to practice in Alaska. This is so because when the name is used in common parlance it will ordinarily not be accompanied by the disclaimers needed to tell the listener who among the named members of the firm are disqualified from practicing law in Alaska.

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> We find no social utility in allowing a firm name to contain the name of a lawyer not permitted to practice in Alaska; on the other hand there are substantial opportunities for the abuses of misrepresentation and advertising inherent in this practice. *Ethics Opinion* No. 71-3.

One noted scholar of legal ethics put it rather succinctly:

> The partnership name may not include that of one not locally admitted, despite explanatory statements on the letterhead, shingle, etc. Since the name, used where no such explanation accompanied it, would imply that all the named partners were locally admitted. Drinker, *Legal Ethics*, p. 205.

Therefore it appears that the listing of firm names which includes names of individuals not licensed to practice law in the State of Alaska would likely be a violation of DR 2-102(D) as interpreted by the Ethics Committee of the Alaska Bar Association.

A survey of the letterheads used by local law firms, if taken, would probably demonstrate that several firms are guilty of listing attorneys on their letterheads who are not admitted in Alaska. This can be misleading to the public and other members of the Bar. Measures should be initiated by all law firms to correct this problem, if it exists, without the necessity of requiring disciplinary involvement by the Alaska Bar Association. Realizing that some firms may have to have new letterheads composed and to allow sufficient time for the necessary adjustments to be made, no immediate enforcement procedures will be implemented. However, after the end of this year it may be "open season" on those who have not cleaned up their act.

JUNEAU...

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ing naval rule. The navy relented, but only for a short time.

Juneau Is Born

Late in 1882 the community organized its first municipal government, and the naval garrison which had policed the community was withdrawn. It was at this meeting that the residents agreed to renaming the community "Juneau," in honor of one of its founders, and historians have suggested that it was the naval commander's pique over their changing the name from Rockwell that motivated his removal of the naval police force.

In July 1883, the new community met the first challenge to law and order in typical vigilante fashion by arresting and confining two Indians who had killed a storekeeper, intending to hold them until the arrival of a naval party to take custody of them. Unfortunately, the prisoners, aided by a friend, escaped, killing their jailer and another white man. The miners mobilized and demanded the surrender of the culprits from the Auke chiefs. Two were finally recaptured, and one who resisted was killed.

Vigilante Law

In a mass meeting, all but a handful of miners voted for the execution of the suspects and they were taken out and summarily lynched. The naval party sent from Sitka arrived the day after the hanging. The naval officer in charge investigated the affair and, while not doubting the justice of the execution, deeply regretted the extralegal manner in which they were carried out.

The following year 1884 a U.S. Judge was appointed for Alaska, and a Deputy U.S. Marshal was stationed at Juneau. Although the U.S. Navy continued to make its presence felt in Alaska by stationing a warship here for many years, its role in law enforcement was gradually phased out. Few people realize today that Juneau was named first after a naval officer who was appointed as the first de facto governor, chief of police and judge.

The Perils of ALSC

by Ralph Knoohuizen

Not for the first time, Alaska Legal Services is in trouble and in danger of having to close its offices. Financial problems are nothing new to us, largely because we try to run a statewide program on a fraction of what it would cost to do a "state agency version of the same, but never has our situation been quite so critical as it is now.

The gist of our financial situation is this: our present budget is secure through December 1981 but not beyond. We still do not know what to expect for 1982 from the federal government, but there is some possibility that we will get nothing. At best, we may be looking at a 35% to 50% cut in our funding from that source.

No Legislative Action

In addition, in the recent legislative session at Juneau, we came up empty, failing to get an appropriation and also seeing the demise of a plan to set up a contingency plan to tide over programs facing federal cuts. Thus we could be forced to run our program in 1982 on nothing more than thin (but clean) Alaskan air.

Though we have had our differences, ALSC has on the whole had good rapport with the private bar. Some conflicts inevitably have arisen because we are all in the business of being advocates and the process of advocacy sometimes puts us on different sides of important issues. We have also drawn fire, perhaps with some justification, for sending inexperienced attorneys into difficult and delicate situations. This problem is, however, probably inevitable when we are not given the kind of budget and salary structure that allows us to attract persons who become career civil servants.

Future Forecast

Let's talk briefly about what the demise of ALSC might mean to the organized bar. Presently we have over 7,000 open civil cases for persons in Alaska who can't afford a lawyer. Many of these involve Native allotment claims, for which we have always taken primary responsibility, but many involve the traditional range of legal services problems such as domestic relations, landlord-tenant, and consumer protection. If ALSC does not exist, the work on these cases will have to be done by someone. One possibility would be that the present ALSC attorneys whose names are on the cases would be required to finish them despite the absence of a paycheck, but this alternative seems unlikely: it is simply not fair to saddle a few attorneys who do not have a paying practice with literally thousands of non-paying cases.

Mandatory Appointments?

More likely is the prospect that the organized bar would be involved in picking up these cases, perhaps in the form of being appointed to them. Perhaps a fund would be created by the state to pay private lawyers to handle these cases, but even a very low hourly rate would undoubtedly cost more than it presently costs to fund legal services. Perhaps a more likely possibility would be that lawyers would be called on to take cases as part of their *pro bono* ethical obligation. If the present ALSC caseload of over 7,000 were divided among the 1,400 lawyers in the state, each lawyer would draw five cases. If the public bar and others who might possibly be exempted are subtracted from the total, each lawyer might draw eight or ten cases. Of course, it goes without saying that once those cases are done, another eight or ten would appear to take their places.

Support Funding

Put in these terms, it makes absolute sense for the lawyers in the state to push for the continued existence of Alaska Legal Services. Let us know what your criticisms are, if any, and give us a chance to correct perceived problems, but let's keep the existing structure of legal service for low-income people. What can the lawyers do? Several things come to mind, including the possibility of individual or corporate donations. Clearly the most productive avenue, however is for the lawyers to throw their considerable weight into persuading our representatives in Juneau to fund Alaska Legal Services. It is clear that legal services cannot exist at this point without partial or perhaps total state funding. Please help us get the money to keep the program going.

(Ralph Knoohuizen is the present Executive Director of ALSC.)

INSIDE/OUTSIDE...

[continued from page 4]

York State Bar Association's Committee on Unlawful Practice of Law is resuming publication of UPL opinions. A moratorium had been called while the Bar Association attempted to resolve issues raised by the Justice Department and FTC. The decision to resume was based upon the conclusion of bar counsel tht the opinions are proper. The opinions are used to educate and protect the public in New York.

Bar Sections

In July, 1981, another milestone will be reached by the Alaska Bar Association because at that time membership will be solicitated for substantive law sections. By turning the old substantive law committees into sections, the Board is anticipating that members will have much broader and more meaningful participation with other colleagues practicing in the same area of law. By turning all substantive committees into sections, the Alaska Bar Association joins a growing number of state bars which realize that exchange of information between colleagues in the same area of law is one of the means by which the profession stays current and remains competent.

Attorney's Judgment Protected

On June 1, the California Court of Appeals affirmed a trial court's summary judgment on behalf of a retired judge who while practicing law had advised his client that she had no community property interest in her husband's military retirement. The decision is significant because it establishes criteria for protection of the judgment of an attorney when the law at the time the professional advice is rendered is unsettled. The criteria are: (1) the state of the law was unsettled at the time the professional advice was rendered; (2) the advice was based upon the exercise of an informed judgment.

The Court held that the question of whether the law is unsettled is a question of law. It rejected the declaration of an expert and declined to permit that declaration to turn the issue of law into an issue of fact. Finally, the Court rejected the argument that because the law is unsettled, an attorney is under a duty to so advise his client. The Court characterized this as seeking to impose an "extraordinary duty" which would effectively vitiate the purpose of judgment protection and undermine the attorney-client relationship because lawyers would have to qualify their opinions regardless of their confidence in those opinions.

Bar/Legislature Amend Rules

The Alaska State Legislature this past legislative session, in sections 12, 15, and 16 of HCSSB 392 (Jud) am H, amended Alaska Bar Rules 2 and 3, which relate to admissions. The Board, which does not oppose the content of any of the legislative amendments, does question the authority of the Legislature itself to amend Alaska Bar Rules, which may potentially be distinguishable from Court Rules, which the Legislature may, by a 2/3rd vote, amend. Therefore, the Board recommends adoption of the changes approved by the Legislature, and is proposing these changes to the membership in order that the language of the Bar Rules may be brought into line with the language of the amendments passed by the Legislature. The Board makes this recommendation because it wishes to avoid any complications in the validity of the admissions rules, and because it either supports or does not object to the proposed changes. Please note that the amendments to Section 1 of Rule 2 contain a number of proposed language changes. The Board itself has over the last six months initiated the majority of those changes. The Board is concurring with the Legislature, however, on the ability of an attorney with five years' experience in another jurisdiction to take Alaska's bar exam even though the applicant may not have graduated from an ABA-accredited law school.

The proposed amendments are printed below. Comments are solicited. These proposals shall be discussed and acted upon during the late August meeting of the Board of Governors.

A. Section 3 of Alaska Bar Rule 2, which created the adjunct member category, has been repealed. This will not have the effect of doing away with that category, since the bylaws of the Association already provide for adjunct membership.

B. Section 7 of Alaska Bar Rule 3, which required an applicant failing the bar exam more than three times to demonstrate a "substantial change in circumstances affecting the applicant's ability to pass the bar" before the Board could grant the applicant leave to take the exam again, was repealed. As a practical matter, the Board has never denied an applicant the right to take the exam again, regardless of the number of unsuccessful attempts or the quality of the changed circumstance demonstrated.

C. Section 1 of Alaska Bar Rule 2 is amended by adding new language to read:

Section 1. Every applicant for examination shall

(a) File an application in a form prescribed by the Board and produce and file the evidence and documents prescribed by the Board in proof of eligibility for examination;

(b) Be a graduate of a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated, or submit proof that the law course required for graduation from such a law school will be completed and that a degree will be received as a matter of course before the date of examination, *or have successfully completed not less than one academic year of education at a law school accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools and have successfully completed a clerkship program which meets the requirements of AS 08.08.207 and is approved by the Alaska Supreme Court.* Certified proof of graduation *or attendance* shall be sent directly from the law school to the Alaska Bar Association and received prior to the date of the examination. *An applicant who has not graduated from a law school accredited under this section who has been licensed to practice law in one or more jurisdictions in the United States for five years since his admission is eligible to take the bar examination.* A graduate of a law school in which the principles of English law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools may qualify for examination by submitting proof that (1) the foreign law school from which he or she graduated meets the American Bar Association Council of Legal Education standards for approval; (2) that he or she has successfully completed not less than one academic year of education at a law school accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools including evidence satisfactory to the Board that the graduate of a foreign law school has successfully completed not less than one course in United States Constitutional Law and one course in Civil Procedure in the United States;

(c) Have attained the age of 18 [19] years; and

(d) Be of good moral character, *which shall be found unless prior or present conduct of the applicant would cause a reasonable person to believe that the applicant would, if admitted to practice law, be unable or unwilling to act honestly, fairly, and with integrity.*

PRESIDENT'S COLUMN...

[continued from page 4]

seek programs outside in order to attend fifteen (15) hours of seminar a year. This improved capacity results not only from a staff CLE coordinator who spends ninety (90%) of her time on CLE programming, but also from the careful work of the statewide CLE Committee in long-range planning and scheduling. Thus, I can plan on the following: (1) a major 1-2 day substantive law seminar at least once every quarter; (2) 5-7 hours of annual update programs at every annual meeting; (3) at least one CLE program each month per year except December; (4) additional CLE video and audio tapes from our bar, ABA and other state associations being available from the bar office for use at my convenience and/or for the local bar's use. If only fifteen (15) hours are required, one seminar and the annual update and the requirements are met.

Finally, although I am chagrined that I have not maintained such good standards for myself, I believe lawyers who tell me they now order cassettes and programs for their personal use. I firmly believe any mandatory program must provide a means for such pursuit of excellence to be credited. Doing so is merely logistical.

In a nutshell, I like "lawyering" and just as I'm willing to accept discipline by my peers as the price of being a lawyer, I'm willing to accept CLE requirements as the price of continuing to practice. My clients deserve it and frankly (to paraphrase a commercial) I'm worth the investment.

PROCEDURES OF THE NINTH JUDICIAL CIRCUIT RELATING TO THE HANDLING OF COMPLAINTS OF JUDICIAL MISCONDUCT UNDER 28 U.S.C. §372(c)

1. Any person alleging that a circuit, district or bankruptcy judge, or a magistrate, has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such a judge or magistrate is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals a written complaint containing a brief statement of the facts constituting such conduct. Anonymous complaints shall not be accepted. The complaint shall be captioned "In re: Complaint of Judicial Misconduct." No identification of the complainant or of the judge involved shall appear in the caption, and the text of the complaint shall be under seal.

2. Upon receipt of a complaint filed under paragraph 1, the clerk of the court of appeals shall promptly transmit such complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter included in the term "chief judge"). The clerk shall simultaneously transmit a copy of the complaint to the judge or magistrate whose conduct is the subject of the complaint, and, in the case of a district judge or magistrate, to the chief judge of the district concerned. If the conduct complained of is that of the chief judge of the district, the copy of the complaint shall be transmitted to the district judge of the district in regular active service next senior in date of commission (hereafter included in the term "chief judge of the district").

3. After expeditiously reviewing a complaint, the chief judge, by written order stating his reasons, may:

(A) dismiss the complaint, if he finds it to be (i) not in conformity with paragraph 1, (ii) directly related to the merits of a decision or procedural ruling, or (iii) frivolous; or

(B) conclude the proceeding if he finds that appropriate corrective action has been taken.

The chief judge shall transmit copies of his written order to the complainant and to the judge or magistrate whose conduct is the subject of the complaint.

4. If the chief judge does not enter an order under paragraph 3, he shall promptly:

(A) appoint himself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint; designate a bankruptcy judge or magistrate, as the case may be, to join the committee in an advisory capacity when a bankruptcy judge or magistrate is the subject of the complaint;

(B) certify the complaint and any other such documents pertaining thereto to each member of such committee; and

(C) provide written notice to the complainant and the judge or magistrate whose conduct is the subject of the complaint of the action taken under this paragraph.

5. (A) Each committee appointed under paragraph 4 shall conduct an investigation as extensive as it considers necessary, exercising its subpoena power where deemed advisable, and shall expeditiously file a comprehensive written report thereon with the circuit judicial council. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council.

(B) Adequate prior notice of any investigation under paragraph 5 (A) shall be given in writing to the judge or magistrate whose conduct is the subject of the complaint, and such judge or magistrate shall be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating committee, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing. The complainant shall be afforded an opportunity to appear at proceedings conducted by the investigating committee, if it concludes that the complainant could offer substantial information.

6. Upon receipt of a report filed under paragraph 5: (A) The judicial council may conduct any additional investigation which it considers to be necessary, exercising its subpoena power when deemed advisable; (B) The council shall take such action as is appropriate to assure the effective and expeditious administration of the business of the court concerned, including, but not limited to, any of the following actions:

(i) directing the chief judge of the district of the judge or magistrate whose conduct is the subject of the complaint to take such action as the judicial council considers appropriate;

(ii) certifying disability of a judge appointed to hold office during good behavior whose conduct is the subject of the complaint, pursuant to the procedures and standards provided under Title 28 §371(b);

(iii) requesting that any such judge appointed to hold office during good behavior voluntarily retire, with the provision that the length of service requirements under Title 28 §371 shall not apply;

(iv) ordering that, on a temporary basis for a time certain, no further cases be assigned to any judge or magistrate whose conduct is the subject of a complaint;

(v) censuring or reprimanding such judge or magistrate by means of private communication;

(vi) censuring or reprimanding such judge or magistrate by means of public announcement; or

(vii) ordering such other action as it considers appropriate under the circumstances, except that (I) in no circumstances may the council order removal from office of any judge appointed to hold office during good behavior, and (II) any removal of a magistrate shall be in accordance with Title 18 §631 and any removal of a bankruptcy judge shall be in accordance with Title 28 §153;

(C) The council shall immediately provide written notice to the complainant (with such restrictions on disclosure as the council deems appropriate) and to such judge or magistrate of the action taken under this paragraph.

(D) Each written order to implement any action under this paragraph which is issued by the judicial council shall be made available to the public through the office of the clerk of the court of appeals, provided that the name of the judge involved may, by order of the council, be withheld. Unless the interests of justice dictate otherwise, each such order issued under this paragraph shall be accompanied by written reasons therefor.

7. (A) The judicial council may also, in its discretion, refer any complaint, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

(B) In any case in which the judicial council determines, on the basis of a complaint and an investigation, or on the basis of information otherwise available to the council, that a judge appointed to hold office during good behavior has engaged in conduct:

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A.B.A. Calls For an End To Discrimination

WASHINGTON, D.C.—The American Bar Association told Congress that current laws regulating tax treatment of pensions of self-employed persons are unfair and elimination of discriminatory practices would give a boost to our economy.

Acting Chairman of ABA's Standing Committee on Retirement of Lawyers James T. O'Hara told members of the Senate Finance Committee that there is "unnecessary" and "blatant" discrimination against self-employed individuals under qualified retirement plans.

Under present law, O'Hara pointed out, "an employee in a corporation can make tax deductible contributions in amounts more than five times greater than his self-employed colleague."

In addition, O'Hara pointed out that the Administration's economic recovery plan has placed a heavy emphasis on stimulating savings and investment, and thus capital formation, through the tax system.

"It is clearly evident," he said, "that increasing the tax benefits available to self-employed persons through qualified retirement plans will induce a higher level of savings than would otherwise occur."

O'Hara said: "The existing discriminatory tax treatment no longer has any tax policy or other justification, and the tax law should be changed to eliminate it."

O'Hara urged the committee to make a number of changes in present law to "provide all individuals greater incentives to save for retirement," including:

- increasing the maximum limitation on deductible contributions permitted for self-employed plans;
- allowing adjustments for cost-of-living increases;
- eliminating the duplicative set of special restrictions that apply to self-employed plans.

Ninth Circuit Rule Amendments

The U.S. Court of Appeals for the Ninth Circuit is considering the adoption of Local Rule 28 which would require counsel, in recalcitrant witness cases, to immediately notify the Court of Appeals that an appeal had been filed in the District Court.

The proposed rule is as follows:

"Every notice of appeal from an order holding a witness in contempt and directing incarceration under 28 U.S.C. §1826 shall bear the caption "RECALCITRANT WITNESS APPEAL." Immediately upon filing, the notice of appeal must be forwarded by the district court clerk's office to the Court of Appeals Clerk's Office. Office.

It shall be the responsibility of the appellant to notify the criminal motions unit of the Court of Appeals that such a notice of appeal has been filed in the district court. Such notification must be given in writing and by telephone within 24 hours of the filing of the notice of appeal. The written notification should be addressed to:

CRIMINAL MOTIONS UNIT
United State Court of Appeals
for the Ninth Circuit
P.O. Box 547
San Francisco, CA 94101

The criminal motions unit may be reached by telephone through the Clerk's office. A failure to provide such notice may result in sanctions imposed by the Court."

Written comments on the proposed rule are invited. In order to be assured of consideration by the court, responses should be submitted before July 1, 1981 to Ms. Fiona Humphrey, Clerk's office, U.S. Court of Appeals, P.O. Box 547, San Francisco, CA 94101. Telephone inquiries may be made to Ms. Humphrey or Mr. Richard Deane, Clerk of Court, at (415) 556-7340.

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(i) which might constitute one or more grounds for impeachment under article I of the Constitution; or

(ii) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

(C) The judicial council acting under this paragraph shall, unless the interests of justice dictate otherwise, immediately submit written notice to the complainant and to the judge or magistrate whose conduct is the subject of the action taken under this paragraph.

8. A complainant, judge, or magistrate aggrieved by a final order of the chief judge under paragraph 3 may, within 30 days, petition the judicial council for review thereof. A complainant, judge, or magistrate aggrieved by an action of the judicial council under paragraph 6 may, within 30 days, petition the Judicial Conference of the United States for review thereof.

9. No judge or magistrate whose conduct is the subject of an investigation shall serve upon a special committee appointed under paragraph 4, or upon the judicial council, until all related proceedings have been finally terminated.

10. No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before the judicial council.

11. All papers, documents, and records of proceedings related to investigations shall be confidential and shall not be disclosed by any person in any proceeding unless:

(A) the judicial council, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

(B) authorized in writing by the judge or magistrate who is the subject of the complaint and by the chief judge, the Chief Justice of the United States, or the chairman of the standing committee established under Title 28 §331.

12. The clerk of the court of appeals shall maintain files for the papers, documents and records arising from proceedings taken pursuant to these rules, separate and apart from all other files and records. Such files shall be maintained with appropriate security precautions to ensure their confidentiality.

For Sale (All Current): West Federal Forms C.J.S., Words and Phrases, A.L.R. Federal, Lawyers Edition Second Reporter, and Supreme Court Reporter V 1-60. Call 272-1527; terms available.

Minutes of the April 17, 1981 Meeting of the Tanana Valley Bar Association

Secretary **Paul Carnarsky,** lacking any sense of priorities, insisted on attending to a murder trial and not the Bar luncheon. Complaints about these minutes should be addressed to him.

Natalie Finn, who must be really bored in Anchorage, was introduced as a guest. Major **Bob Noreen,** an associate member, was introduced as **Bill Nordin.** After a short **Savell** joke, **President Groseclose** read the mail and extracted a treasurer's report. **Will Schendel** was directed to meet with **Susan Fisher** of the Far North Press Club. The Headstart Program got no volunteers.

There are two CLE programs on the horizon, Evidence Rules May 14 and May 15 and Workmen's Compensaation whenever **Art Robson's** notice says it is.

Jon Link reported the Board of Governors had hired **Dick Ray,** formerly of Fairbanks and Kodiak, as Bar counsel; that **Andy Kleinfeld** was replacing him; and that he had to leave. He did. After another short Savell joke, Richard resuled for the missing Link. Members were solicited for the Fee Arbitration and Area Discipline Committees. There wasn't a big rush to sign up.

Groseclose noted **Meg Greene** had been elected to the Board of Alaska Legal Services Corporation, to preside over the denouement. **Judge Cline,** in an exercise of his judicial prerogatives, interrupted the serious business of the meeting to introduce someone associated with the Judicial Council. After appropriate comments, the members turned to the Law Day affairs.

After an unusually serious display of parliamentary hysteria, the members decided to hold a Law Day party with dancing girls and **Mac Gibson.** Presumably some sort of announcement will follow.

Stunned at having accomplished something substantive, the members passed a resolution asking the legislature to appropriate $1,000,000.00 to study justice and discipline in south Fairbanks. Canarsky gets to write that letter.

Wickwire volunteered to be the bear butt. Andy didn't report for the legislative committee. We adjourned without further delay.

JAMES D. DEWITT for
PAUL CANARSKY
Secretary in absentia

View from the Top

Deep in flight you daydream
contemplating cumulus clouds from
above:
Vast mounds of freshly whipped cream
spread to expanse of snowy softness
suspended beneath you, with wisps
here and there standing in peaks
at 45-degree angles, or tall puffy
towers protruding from within.

You fantasize a free-fall swan dive
onto a gigantic comforter; You sink
softly and bounce back in slow motion.

Occasionally a whole wall appears
at your side; and if the sun is just
right you can see moving across it
the tiny shadow of the airplane
that was so enormous on the ground.

Sometimes a rainbow-hued halo
encircles the nose of the plane
like a guardian angel.

As you begin to descend the density
disappears, replaced by a heavy fog
that finally engulfs you. Now
the pilot is blind and you're grateful
for the guardian angel.

You move downward through the
clouds
and suddenly emerge from the bottom
to find a great city rising to meet you.

Susan Hallock
Copyright 1981 (June)

WANTED! jurors for mock trials!

The Alaska Bar Association and the National Institute for Trial Advocacy, are sponsoring an institute to assist Alaskan attorneys in developing and improving their trial skills. The nine-day program is being held at the Alyeska Resort, in Girdwood, August 15-23.

Mock trials will be held during the last two days of the institute: Saturday, August 22, and Sunday, August 23rd.

The Alaska Bar is looking for persons interested in serving as jurors for trials scheduled for either one of those two days. The Bar will pay each person a gratuity of $7.50 per day, plus provide lunch. (Transportation is available to and from Alyeska for those needing it).

If interested in serving as a juror, contact Jennifer Ortiz or Geri Downs, at the Alaska Bar, at 272-7469.